

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, July 4, 2017 1:33 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Fwd: [DWN] Fwd: 17-55208 Jenny Flores v. Jefferson Sessions, III, et al "Order Filed (From Chambers)"

----- Forwarded message -----

From: Daniel Kowalski (b) (6)
Date: Tue, Jul 4, 2017 at 9:53 AM
Subject: [immprof] Fwd: [DWN] Fwd: 17-55208 Jenny Flores v. Jefferson Sessions, III, et al "Order Filed (From Chambers)"
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Sent from a small machine; apologies for brevity/typos.

Begin forwarded message:

From: (b) (6) ucdavis.edu>
Date: July 3, 2017 6:36:42 PM MDT
To: "dwn@lists.detentionwatchnetwork.org" <dwn@lists.detentionwatchnetwork.org>
Subject: [DWN] Fwd: 17-55208 Jenny Flores v. Jefferson Sessions, III, et al "Order Filed (From Chambers)"

Ninth Circuit just lifted the stay in Flores v. Sessions. Detained immigrant kids have the right to a bond hearing effective immediately. Happy Fourth!

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From: ca9_ecfnoticing@ca9.uscourts.gov <ca9_ecfnoticing@ca9.uscourts.gov>
Sent: Monday, July 3, 2017 4:21:44 PM
To: (b) (6)
Subject: 17-55208 Jenny Flores v. Jefferson Sessions, III, et al "Order Filed (From Chambers)"

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

United States Court of Appeals for the Ninth Circuit

Notice of Docket Activity

The following transaction was entered on 07/03/2017 at 4:21:40 PM PDT and filed on 07/03/2017

Case Name: Jenny Flores v. Jefferson Sessions, III, et al

Case Number: [17-55208](#)

Document(s): [Document\(s\)](#)

Docket Text:

Filed order (STEPHEN REINHARDT, A. WALLACE TASHIMA and MARSHA S. BERZON):
The stay of the district court's order pending appeal is LIFTED effective immediately.
[10496608] (AF)

Notice will be electronically mailed to:

Vinita Andrapalliyal
Holly Stafford Cooper
Virginia Corrigan
Sarah Fabian, Trial Attorney
August E. Flentje
Honorable Dolly M. Gee, District Judge
Mr. Carlos R. Holguin
Stephen B. Kang
Mrs. Kyra Kazantzis, Attorney
Ms. Annette Kirkham, Senior Attorney
Mr. Jack Williford Londen
Austin Manes
Mrs. Katherine Haas Manning
Mr. Peter Anthony Schey
Steven H. Schulman
USDC, Los Angeles

The following document(s) are associated with this transaction:

Document Description: Main Document

Original Filename: 17-55208_Flores - order lifting stay.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1106763461 [Date=07/03/2017] [FileNumber=10496608-0]
[466055635954d9582d1a4a160716148edfe812ebbd55abbb4b5086af687b3a386a36a9e62b78eca
532ceb566ad2adde0807b5d8ae1b7e65ec3880d193807bbf4]]

DWN mailing list

Post: DWN@lists.mayfirst.org

List info: <https://lists.mayfirst.org/mailman/listinfo/dwn>

To make changes to your subscription or change your password, visit:

<https://lists.mayfirst.org/mailman/options/dwn/dan%40cenizo.com>

To Unsubscribe

Send email to: DWN-unsubscribe@lists.mayfirst.org

You are subscribed as: (b) (6)

--

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immprof+unsubscribe@lists.ucla.edu.

--

Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, August 16, 2017 9:39 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Re: Juan Osuna has died

Follow Up Flag: Flag for follow up
Flag Status: Completed

----- Forwarded message -----

From: Mark Noferi (b) (6)
Date: Wed, Aug 16, 2017 at 9:37 PM
Subject: Fwd: [immprof] Re: Juan Osuna has died
To: (b) (6)

----- Forwarded message -----

From: (b) (6) <(b) (6)@cornell.edu>
Date: Wed, Aug 16, 2017 at 8:24 PM
Subject: [immprof] Re: Juan Osuna has died
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Hi all: I am coming to this email thread late b/c I was out all afternoon playing with our young grandkids. A good anecdote to this very sad news. The circle of life continues, but that doesn't diminish this loss.

I feel responsible for Juan getting into immigration law. I hired him as a part-time intern to summarize cases for Interpreter Releases while he was still a law student. It has been great to see him blossom into a monumental figure in immigration policy, while still remaining a kind and modest human being.

Lexis has asked me to write a tribute to Juan for Bender's Immigration Bulletin. Feel free to email the list or me offline by Friday with your memories of Juan.

Thanks, (b) (6)

> On Aug 16, 2017, at 7:51 PM, (b) (6) <(b) (6)@stthomas.edu> wrote:

>

> Solid, thoughtful, sometimes sort of funny. This is not supposed to happen. He's the kind of person I want my kids to grow up to be like.

>

> From: (b) (6) [mailto:(b) (6)@law.villanova.edu]

> Sent: Wednesday, August 16, 2017 5:39 PM

> To: (b) (6) <(b) (6)@STU.EDU>

> Cc: (b) (6) <(b) (6)@dsl.psu.edu>; (b) (6) <(b) (6)@uchastings.edu>; Musalo, Karen B. <(b) (6)@uchastings.edu>; Dan Kowalski <dkowalski@david-ware.com>; immprof@lists.ucla.edu

> Subject: Re: [immprof] FW: Juan Osuna died

>
> Tragic! I, too, first met Juan in his early days at Interpreter Releases. He published articles that (b) (6) and I co-authored. What a wonderful person and friend. He will be missed.
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> I thought I would share a video from a conversation between Juan and Don Kerwin just a month ago at the Center for Migration Studies in New York. https://www.youtube.com/watch?v=cS73bVI3_NI
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> Juan and Wendy are in my prayers,
> (b) (6)
>
> The Immigration Courts: A Conversation with Juan Osuna, Former EOIR Director
> www.youtube.com
> The Center for Migration Studies (CMS) hosted a special conversation with Juan P. Osuna, former Director of the Executive Office for Immigration Review (EOIR...
>
>
> (b) (6)
> Professor of Law
> Villanova University, Charles Widger School of Law
> Director, Clinic for Asylum, Refugee & Emigrant Services (CARES)
> Co-Managing Editor, Journal on Migration and Human Security
> Faculty Associate, Villanova Institute for Teaching and Learning
> Adjunct Fellow, Clayton Christensen Institute for Disruptive Innovation
> (b) (6)
>
> From: (b) (6) on behalf of (b) (6)
> (b) (6)
> Sent: Wednesday, August 16, 2017 5:44:42 PM
> To: (b) (6)
> Cc: (b) (6) Dan Kowalski; immprof@lists.ucla.edu
> Subject: Re: [immprof] FW: Juan Osuna died
>
> This is a tragic loss. I am so sorry for Juan and Wendy and their family and friends.
>
> Of course, I worked with Juan at the BIA, and prior to that, when he was at Interpreter Releases. We used to coordinate to accompany (b) (6) and help him get to various events in his later years.
>
> It's very sadly reminiscent to me of my sudden loss of my partner (b) (6) in 2005.
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> IDEAS CONSULTATION and COACHING
> Immigration Defense & Expert Advocacy Solutions
> Empowering Successful Immigration Lawyers
> (b) (6)
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> IMMIGRANT DEFENDERS LAW GROUP, PLLC

> (b) (6)

[REDACTED]

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> (b) (6)

[REDACTED]

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> On Wed, Aug 16, 2017 at 5:03 PM, (b) (6) <[REDACTED]@psu.edu> wrote:

> So sad, especially after having given so many years of service to EOIR, and starting down a new path. I met Juan when I did my first Interpreter Releases piece, and he was a fabulous editor and such a nice guy.

>

> (b) (6), Esq.

> Professor of Law

> St. Thomas University School of Law

> 16401 NW 37th Ave.

> Miami Gardens, FL 33054

> Tel: (b) (6) (work)

> You can access my papers on the Social Science Research Network (SSRN) at (b) (6)

>

> From: (b) (6) <[REDACTED]@dsl.psu.edu>

> Sent: Wednesday, August 16, 2017 4:01 PM

> To: (b) (6) <[REDACTED]@uchastings.edu>; (b) (6) <[REDACTED]@uchastings.edu>

> Cc: 'Dan Kowalski' <(b) (6)> <[REDACTED]@lists.ucla.edu> <[REDACTED]@lists.ucla.edu>

> Subject: RE: [immprof] FW: Juan Osuna died

>

> Heartbreaking. This is too sad L

>

> (b) (6), Esq.

> (b) (6)

[REDACTED]

> Penn State Law- University Park

> The Pennsylvania State University

> Phone: (b) (6)

> Email: (b) (6)

> Faculty Page: (b) (6)

[REDACTED]

> Twitter: (b) (6)

>

> (b) (6)

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> (b) (6)
> <image007.png>
> <image008.png>
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> From: (b) (6) [mailto:(b) (6)@uchastings.edu]
> Sent: Wednesday, August 16, 2017 4:00 PM
> To: (b) (6)@uchastings.edu
> Cc: Dan Kowalski (k(b) (6) immprof@lists.ucla.edu
> Subject: Re: [immprof] FW: Juan Osuna died
>
> How so very sad.
>
>
> (b) (6)
> On Aug 16, 2017, at 12:57 PM, (b) (6)@uchastings.edu wrote:
>
> I just received confirmation from someone with personal knowledge. So tragic.
>
>
> (b) (6)
> (b) (6)
> Professor (b) (6)
> U.C. Hastings College of the Law
> 200 McAllister Street
> San Francisco, CA 94102
> tel: (b) (6)
> (b) (6)@uchastings.edu
>
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>
> On Aug 16, 2017, at 11:10 AM, Dan Kowalski <dkowalski@david-ware.com> wrote:
>

> Unconfirmed...
>
> From: (b) (6)
> Sent: Wednesday, August 16, 2017 12:08 PM
> To: (b) (6)
> Cc: Dan Kowalski; Dan Kowalski; (b) (6) @law.und.edu; Julia Preston; Tal Kopan;
(b) (6)
> Subject: Re: Juan Osuna died
>
> I am very sorry to hear this news. Thank you for letting us know (b) (6)
>
> On Wed, Aug 16, 2017 at 2:03 PM, (b) (6) wrote:
> Have you heard about this? What a tragedy!
> P
>
> Sent from my iPad
>
> Begin forwarded message:
>
> From: (b) (6)
> Date: August 16, 2017 at 1:52:22 PM EDT
> To: (b) (6)
> Subject: Juan Osuna died
>
> Last night from an apparent heart attack. - (b) (6)
>
> Sent from my iPhone
>
>
>
> --
> (b) (6) Esq.
> Dzubow & Pilcher, PLLC
> 1900 L Street, N.W. – Suite 305
> Washington, DC 20036
> TEL: (b) (6)
> FAX: (b) (6)
> Website: www.DzubowLaw.com
> Blog: (b) (6)
>
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(b) (6)

Miller Mayer, LLP
215 East State Street, Suite 200
P.O. Box 6435
Ithaca, New York 14851-6435

(b) (6)

Phone: (b) (6)

Fax: (b) (6)

e-mail: (b) (6) [@cornell.edu](mailto:immprof@cornell.edu)

WWW: <http://www.millermayer.com/>

(b) (6)

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--

Mark Noferi

cell: (b) (6)

--

Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi <(b) (6)>
Sent: Thursday, August 17, 2017 9:11 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Re: Juan Osuna has died

Follow Up Flag: Flag for follow up
Flag Status: Completed

----- Forwarded message -----

From: (b) (6) <(b) (6)>
Date: Thu, Aug 17, 2017 at 5:33 AM
Subject: Re: [immprof] Re: Juan Osuna has died
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

I am stunned and saddened by this news - a deep loss to the community of immigration aficionados, and one I feel quite personally. Juan and I had gone through many battles and challenges together in government service, and always kept in reasonably close touch each time I returned to academic life. What a solid, balanced, unflappable colleague, with such a rich, personal knowledge of the field - from many perspectives and life experiences.

Juan and I spoke just a few weeks ago to open a conversation about ideas for what he might do in his post-DOJ years. He and his wife were thinking of buying some land near Charlottesville and before long building a house and moving here, so we brainstormed a few ideas about places or institutions where he might find a base and remain engaged in policy and law. It was a preliminary conversation, and we had plans to be back in touch later this month after he returned from a vacation (or at least some kind of extended travel). I was also relishing the prospect of being neighbors or at least co-residents of a wonderful small city (despite the horrible events of the past week). This is another hard blow, to our field and to all his many friends.

(b) (6)

(b) (6)
(b) (6) <[aw.virginia.edu](mailto:(b) (6)@law.virginia.edu)>
office: (b) (6)
mobile (b) (6)

Sent from my iPhone

On Aug 16, 2017, at 8:24 PM, (b) (6) <[cornell.edu](mailto:(b) (6)@cornell.edu)> wrote:

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I feel responsible for Juan getting into immigration law. I hired him as a part-time intern to

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From: (b) (6) <[law.villanova.edu](mailto:(b) (6)@law.villanova.edu)>

Sent: Wednesday, August 16, 2017 5:39 PM

To: (b) (6)

(b) (6) >

Cc: (b) (6) <[dsl.psu.edu](mailto:(b) (6)@dsl.psu.edu)>; Boswell, Richard <[uchastings.edu](mailto:(b) (6)@uchastings.edu)>; Dan Kowalski <dkowalski@david-ware.com>; immprof@lists.ucla.edu

Subject: Re: [immprof] FW: Juan Osuna died

Tragic! I, too, first met Juan in his early days at Interpreter Releases. He published articles that (b) (6) and I co-authored. What a wonderful person and friend. He will be missed.

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https://www.youtube.com/watch?v=cS73bVI3_NI

Juan and Wendy are in my prayers,

(b) (6)

The Immigration Courts: A Conversation with Juan Osuna, Former EOIR Director

www.youtube.com

The Center for Migration Studies (CMS) hosted a special conversation with Juan P. Osuna, former Director of the Executive Office for Immigration Review (EOIR...

(b) (6)

Professor of Law

Villanova University, Charles Widger School of Law

(b) (6)

(b) (6)

From: (b) (6) on behalf of (b) (6)
(b) (6)

Sent: Wednesday, August 16, 2017 5:44:42 PM

To: (b) (6)

Cc: (b) (6); Dan Kowalski;
immprof@lists.ucla.edu

Subject: Re: [immprof] FW: Juan Osuna died

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Empowering Successful Immigration Lawyers

(b) (6)

<image002.png>

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(b) (6)

(b) (6)

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On Wed, Aug 16, 2017 at 5:03 PM, (b) (6) <[@stu.edu](mailto:(b) (6)@stu.edu)> wrote:

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(b) (6) Esq.

Professor of Law

St. Thomas University School of Law

16401 NW 37th Ave.

Miami Gardens, FL 33054

Tel: (b) (6) (work)

You can access my papers on the Social Science Research Network (SSRN) at (b) (6)

From: (b) (6) <[dsl.psu.edu](mailto:(b) (6)@dsl.psu.edu)>

Sent: Wednesday, August 16, 2017 4:01 PM

To: (b) (6) <[uchastings.edu](mailto:(b) (6)@uchastings.edu)>; 'Musalo, Karen B.' <[@uchastings.edu](mailto:(b) (6)@uchastings.edu)>

Cc: 'Dan Kowalski' <dkowalski@david-ware.com>; 'immprof@lists.ucla.edu' <immprof@lists.ucla.edu>

Subject: RE: [immprof] FW: Juan Osuna died

Heartbreaking. This is too sad L

(b) (6) Esq.

(b) (6)

Penn State Law- University Park
The Pennsylvania State University

Phone: (b) (6)

Email: (b) (6) [psu.edu](mailto:(b) (6)@psu.edu)

(b) (6)

Twitter: (b) (6)

(b) (6)

(b) (6)

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From: (b) (6) [@uchastings.edu](mailto:(b) (6)@uchastings.edu)

Sent: Wednesday, August 16, 2017 4:00 PM

To: (b) (6) [@uchastings.edu](mailto:(b) (6)@uchastings.edu)

Cc: Dan Kowalski <dkowalski@david-ware.com>; immprof@lists.ucla.edu

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(b) (6)

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(b) (6)

(b) (6)

Professor (b) (6)

U.C. Hastings College of the Law

200 McAllister Street

San Francisco, CA 94102

tel: (b) (6)

(b) (6) chastings.edu

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Sent: Wednesday, August 16, 2017 12:08 PM

To: (b) (6)

Cc: Dan Kowalski; Dan Kowalski; (b) (6) <[REDACTED]@law.und.edu>;

(b) (6)

(b) (6)

Subject: Re: Juan Osuna died

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From: (b) (6) <[REDACTED]>

Date: August 16, 2017 at 1:52:22 PM EDT

To: (b) (6) <[REDACTED]>

Subject: Juan Osuna died

Last night from an apparent heart attack. - (b) (6)

Sent from my iPhone

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(b) (6), Esq.

Dzubow & Pilcher, PLLC

1900 L Street, N.W. – Suite 305

Washington, DC 20036

TEL: (b) (6)

FAX: (b) (6)

Website: www.DzubowLaw.com

Blog: (b) (6)

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(b) (6)

Miller Mayer, LLP
215 East State Street, Suite 200
P.O. Box 6435
Ithaca, New York 14851-6435

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Phone: (b) (6)
Fax: (b) (6) 4
e-mail: (b) (6) @cornell.edu
WWW: <http://www.millermayer.com/>

(b) (6)

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi <(b) (6)>
Sent: Thursday, August 17, 2017 11:23 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Juan Osuna

Follow Up Flag: Follow up
Flag Status: Completed

----- Forwarded message -----

From: (b) (6) <(b) (6)>
Date: Thu, Aug 17, 2017 at 10:53 AM
Subject: [immprof] Juan Osuna
To: Immprof Immprof (<immprof@lists.ucla.edu>) <immprof@lists.ucla.edu>

I too am so saddened by Juan's passing. I worked very closely with Juan on a whole range of progressive initiatives during my time at USCIS. I can personally attest that he is someone who felt a genuine compassion for immigrants and refugees and who, while constrained by many political and bureaucratic challenges, nonetheless managed to succeed on many fronts through sheer persistence, strategic judgment, and interpersonal skills. Juan treated everyone with respect – not just as a tactic for getting things done, but because that was who he was – an exceptionally warm, kind, thoughtful human being.

I'm proud and grateful to have been able to count Juan as a friend. Like so many others, I will miss him terribly.

He and Wendy had a wonderful loving relationship, and I know she is devastated by this terrible and entirely unexpected event. My heart goes out to Wendy, to Juan's mother, and to all of Juan's extended family and friends. Immigrants, refugees, and all who have known Juan personally have lost a special friend.

(b) (6)

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, August 23, 2017 6:26 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Tribute article to Juan Osuna
Attachments: Juan Osuna tribute article.docx

----- Forwarded message -----

From: (b) (6) <(b) (6)@cornell.edu>
Date: Tue, Aug 22, 2017 at 11:39 AM
Subject: [immprof] Tribute article to Juan Osuna
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>, ICLINIC@LIST.MSU.EDU <ICLINIC@list.msu.edu>, lpig@lists.aila.org <lpig@lists.aila.org>

Apologies for cross-postings:

Thanks to all who emailed me their memories about Juan Osuna. I have incorporated some common thoughts into the attached article about Juan. It will be published in Bender's Immigration Bulletin. It is also on the AILA website at <http://aila.org/about/announcements/in-memoriam/juan-osuna-a-life-well-lived-but-cut-too-short>.

The end of the article notes the time and place for Juan's memorial service this Sunday, and where people can make donations if they so desire.

(b) (6)

(b) (6)

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P.O. Box 6435
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Mark Noferi

cell: (b) (6)

Juan Osuna: A Life Well-Lived But Cut Too Short

By (b) (6)

Death felled a giant of immigration law and policy last week when Juan P. Osuna, age 54, died unexpectedly of an apparent heart attack. Juan worked for seventeen years as a senior immigration legal advisor in the Justice Department for both Democratic and Republican administrations. Juan had recently resigned as director of the Justice Department's Executive Office for Immigration Review and was contemplating the next chapter of his remarkable life when he passed away.

Juan was an immigrant from Colombia, and his career is an immigrant success story. I hired Juan in 1988 while he was a law student to summarize federal immigration decisions for Interpreter Releases, a weekly immigration newsletter. When Juan graduated he joined the Interpreter Releases staff as assistant editor. After I left DC to practice immigration law and teach at Cornell, Juan became managing editor. We both worked with the legendary Maury Roberts, former chair of the Board of Immigration Appeals (BIA).

Juan's government service began in 2000 as a BIA member. He rose rapidly through the ranks at the Justice Department, serving at various times as BIA board chair, Deputy Assistant Attorney General, and Associate Deputy Attorney General in charge of immigration policy and other issues. He was a frequent public speaker and testified several times before Congress about the immigration court system.

Juan worked on some of the most intractable immigration issues of our time. For example, he worked behind the scenes on comprehensive immigration reform legislation. Juan supported several innovative ideas, drawing on his extensive experience to explain why particular proposals had merit. He was skilled at helping to develop consensus among agencies so that the process could move forward.

Juan also worked tirelessly on trying to amend the asylum regulations. The revisions would have expanded the meaning of "particular social group," clarified the rules governing asylum by non-state actors (thus aiding those with domestic violence claims and claims based on persecution by rebels), and made a range of other substantive changes. Sadly, consensus proved unattainable and the new regulations have not been finalized.

Juan's career highlights tell only part of his story. In addition to being smart and articulate, he had great emotional intelligence. He genuinely cared about others. He was patient, humble, understanding, loyal, and funny. He was even-handed and fair-minded, with high respect for both the law and human beings.

Juan inspired many others to consider immigration law as a career. For example, when he was a member of the BIA, Juan spoke to my colleague (b) (6) first-year lawyering class at Cornell. The students had just completed a memo assignment in asylum law. Students asked Juan tough questions: Have you ever regretted a decision? Have you ever been moved by anything in a case beyond logic? He fielded these questions with an honesty and grace that (b) (6) had rarely seen in any speaker. He spoke so movingly about his work that several

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, August 25, 2017 11:10 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Juan

----- Forwarded message -----

From: (b) (6) <[REDACTED]@law.georgetown.edu>
Date: Thu, Aug 24, 2017 at 9:33 PM
Subject: [immprof] Juan
To: IMMPROF (UCLA) (<immprof@lists.ucla.edu>) <immprof@lists.ucla.edu>

Dear colleagues: Apologies for not posting this until now. I've been away, and this is my first day back. Thanks for understanding.

Juan was a gentle man, a good listener, a highly dedicated public servant, and an educator who thrived with students. I was lucky to know him as a friend and colleague for many years. Like everyone else, I feel his loss acutely.

Whether at a professional meeting, in a classroom, or at my home or his, Juan's wonderful good nature shone through. He showed respect for all and made them feel comfortable talking to him. Being the Chairman of the Board of Immigration Appeals, the top immigration policy official at Justice, or the Director of the Executive Office for Immigration Review never went to his head. Of course, perhaps we should thank Wendy for that, but frankly, I think that was mostly Juan. Very down to earth and very straight forward.

Juan listened to everyone, no matter where they were in their learning path. He was just exceptional with students. For at least a decade, he and David Neal taught a class on immigration courts and the BIA in my Immigration Law and Policy course. The students loved them both. Why? First, they learned from the insiders what it's like to be a judge and a Board member in these very critical due process institutions. Warts and all. Juan never papered over problems. He wanted the students to understand the challenges for everyone involved in this highly under-resourced adjudicative system. Of course, I highly encouraged the students to ask demanding questions of my friends and very knowledgeable colleagues, and the students always came through. Juan ate that up. He wanted them to learn how things were and where improvements were sorely needed. It didn't take long for Juan to feel very comfortable speaking at a university, and that's precisely what I wanted my students to hear. Both he and David always stayed after class to answer questions from all the students who had further inquiries after the ninety-minute talk and discussion of the formal class. Knowing that, I always scheduled our lunch 30-40 minutes after class ended. Juan loved the university environment.

Juan and David came back year after year by popular demand—that's right, I asked my students to give me feedback on the guest speakers, and Juan and David always scored high marks. Two years ago, I asked Juan and David to teach Refugee Law and Policy as adjuncts at Georgetown Law. Having observed them for years in my own class, I knew this would be a success as long as they could manage the time from their very demanding public service commitments. Their course has been oversubscribed. I am still in disbelief that Juan won't be teaching my students or his students any longer.

No one could have asked more from a public servant. Juan knew what he was doing in the very difficult environment of reforming from within. Because of who he was—gentle, respectful of others, listening carefully to all—he managed his way through Administrations controlled by different parties. After Attorney General Ashcroft forced the Board to quickly decide cases without opinions or with very short ones, Juan helped many Circuit Court of Appeals judges understand the nature of the Immigration Judge oral decisions they were reading and the system that led to major increases in federal appellate immigration cases. He tried his best to get more resources for EOIR. He understood the value of research and ensured that EOIR data would be shared so that all could learn just how the laws and policies were being implemented in the immigration courts and BIA. Most recently, he played a pivotal role in agreeing to connect DHS and EOIR asylum and credible fear data so that the lifecycle of cases can be analyzed. And he fought for years to move DHS towards significant and thoughtful use of prosecutorial discretion. He knew well that the system was broken and needed major attention, and despite the glacial pace of change, he never stopped pushing for improvements.

That's not to say, of course, that Juan and I agreed on how best to reform. We disagreed at times in public, at times in private, and what I loved about Juan is that he was so even-keeled that it never bothered him when I would get passionate about an issue we disagreed about. He listened, and he provided his thoughtful response. If there was ever anyone who made me feel fine about disagreeing with him, it was Juan. He just never took it personally, even in public.

I so wish our world were filled with Juans. And I am so sad to have lost a wonderful friend and colleague. I am especially sad for Juan and for Wendy. After he left directing EOIR at the end of May, Juan took some time to rest and think carefully about the next stage of his career. We met for lunch after he revived from almost two decades of high level government service, and we discussed, among other possibilities, teaching. Juan looked and felt really good. He explored a variety of possibilities, some more near term, others for the longer haul. He had so much to contribute still and to look forward to. His knowledge of immigration governance was exceptional. And he cared. The loss of that Juan is a significant public misfortune.

Finally, he and Wendy had so much to look forward to together. Wendy has been a friend and colleague for even longer than Juan, and they were quite the match. For years, I arranged dinners at my home to introduce my best students and clinical fellows to them. Always great discussions and fun. Juan did know how to enjoy himself. We will miss Juan terribly at our dinner table as Wendy helps us continue this tradition, because that's what Juan would have wanted. And I will miss him in my classroom as David continues that tradition, and I will miss our lunches. I cannot believe that he is gone. We have all lost an exceptional public servant, a gifted educator, and a wonderful friend.

(b) (6)

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(b) (6)

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, September 7, 2017 10:07 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Call for Submissions - ABA Year in Review (Immigration)
Attachments: image001.png

----- Forwarded message -----

From: (b) (6) <[temple.edu](mailto:(b) (6)@temple.edu)>
Date: Thu, Sep 7, 2017 at 8:50 AM
Subject: [immprof] Call for Submissions - ABA Year in Review (Immigration)
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Good afternoon Colleagues,

Whether we work directly with immigration matters or not, recent events have no doubt touched off important conversations about our laws and policies and those of our colleagues abroad. With a refugee crisis in Myanmar, immigration activism in Germany and France, and changing policies around lawful migration in the Americas, all of our practices have been touched in some way by immigration. The Year in Review Immigration Section is an opportunity for us to share how local changes are affecting the dialogue and dynamic around global migration policy. It is important for each of us to step back for a brief moment and reflect on these changes and share our valued insights with our colleagues. This annual publication consolidates insights from across the international legal spectrum with clear and concise insights about specific issues in our work. It is an excellent way to share your valuable experience and knowledge with a community of thousands without expending the vast amounts of time that law journals typically demand.

I invite those practitioners, as well as academics and others in the field, to share brief insights about important issues they are working on or have knowledge about with respect to immigration law and policy around the globe. This small contribution of time will go a long way in expanding the body of knowledge in our field. I am looking for topics from around the world addressing matters such as: important changes to immigration laws or procedures, key decisions from immigration or civil courts, proposed or enacted legislation affecting the rights of immigrants, refugee or asylum law, and so forth. Immigration is a field that touches many other subjects, from economics to political science, so even if you are not an immigration practitioner, you may have a topic that fits within this broad area of law and we would be happy to consider it.

[Here are the details for making a submission for the Year in Review:](#)

Send me (b) (6) @Temple.edu an email with a 1-2 sentence idea/ topic that you have in mind, along with a quick note about you and your work as soon as possible but no later than September 29.

I will respond to you promptly letting you know if your topic would fit within the publication and, if it does, I will ask you to begin drafting the piece promptly.

Final submission of the completed article will be due to me by November 10 (I need to deliver the edited piece for publication by December 1 and you will have a chance to review my edits before I do).

Length: 1,500 – 2,500 words

Citations: Bluebook (don't worry if your citations are less than perfect—I will format those)

Style: Law journal

Please send me your ideas or any questions you have about the process. And do share this invitation with others in your network. Thank you!

(b) (6)



(b) (6), J.D., Ph.D.

Assistant Professor

Academic Director of Global Immersion Programs

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [Profile](#) | www.KevinFandl.com

(b) (6)

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e-mail (b) (6) @temple.edu

(b) (6)



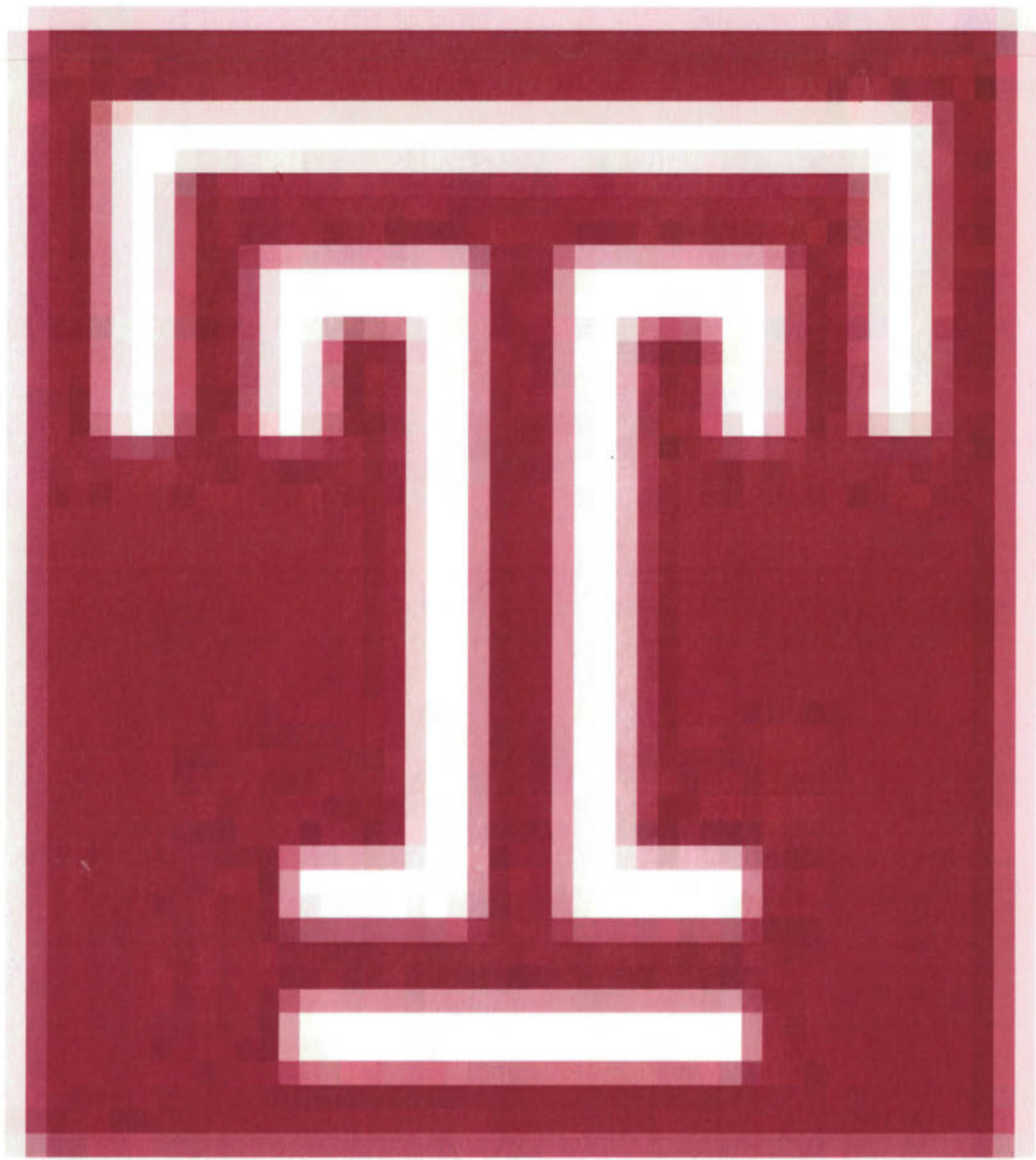
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Mark Noferi

cell: (b) (6)



Fox School
of Business

www.foxbusiness.com

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, September 7, 2017 1:48 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] [Four] questions raised by the DACA FAQs

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From: (b) (6) <[redacted]@dsl.psu.edu>
Date: Thu, Sep 7, 2017 at 1:32 PM
Subject: Re: [immprof] [Four] questions raised by the DACA FAQs
To: (b) (6) <[redacted]@law.georgetown.edu>
CC: (b) (6) <[redacted]@rwu.edu>, (b) (6) <[redacted]@uci.edu>, Anwen Hughes <[redacted]@cornell.edu>, immprof@lists.ucla.edu <immprof@lists.ucla.edu>, ICLINIC@LIST.MSU.EDU <ICLINIC@list.msu.edu>

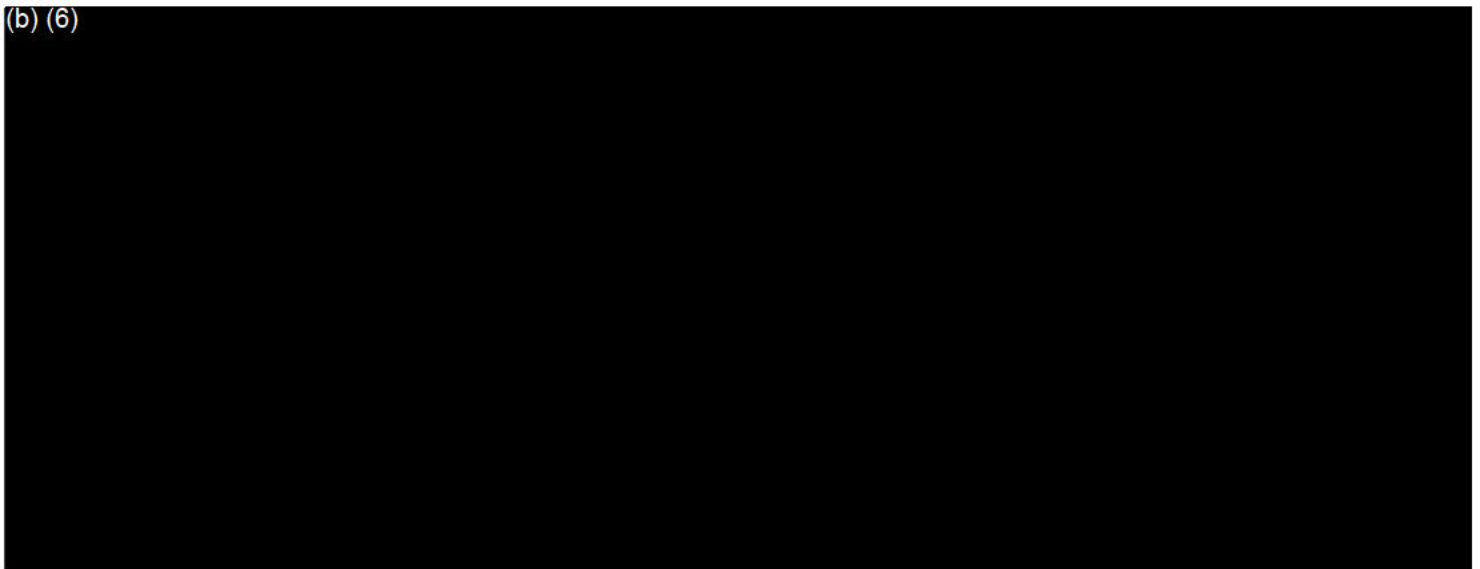
I am not convinced the FAQ's use of 'unlawfully present' is equal to the art of 'accruing unlawful presence.' After all a condition of DACA is to have no lawful status on a date certain. How is one to know whether DHS is now using the term 'unlawfully present' formally or informally?

Also, the most recent and still viable (until I am told otherwise) memo on this matter was in 2009. https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/Static_Files_Memoranda/2009/revisio_n_redesign_AFM.PDF

Long before DACA those with deferred action did/do not accrue ULP which in such status.

To read 6/11/12 to mean that all those with DACA will retroactively accrue ULP is incompatible with 14, longstanding practice/memo and would trigger legal concerns.

(b) (6)



On Sep 7, 2017, at 1:15 PM, (b) (6) <[redacted]@law.georgetown.edu> wrote:

I'm going further than that, I think -- as I read it, they are treating all DACA recipients (and perhaps other deferred action recipients, as well), as having been accruing "unlawful presence" all along. That was the understanding until the (fairly inexplicable) (b) (6) memo in 2002. I wouldn't be surprised if they have rescinded (or plan to rescind) that memo, as well, together with the 1996 Reno reg w/r/t "lawful presence."

On Thu, Sep 7, 2017 at 1:06 PM, (b) (6) wrote:

(b) (6) is correct.

But what's so insidious about this is that those who turned 16 this week and became eligible for DACA as well as those who turned 18 after 2012 will now for the first time accrue unlawful presence. The arbitrary Oct 5 deadline will set up many to fail because of the filing fee, which is hard for a lot of folks to get together.

(b) (6)
Ulmer & Berne LLP
(b) (6)

From: (b) (6) [mailto:(b) (6)@rwu.edu]
Sent: Thursday, September 07, 2017 12:58 PM
To: (b) (6)

Cc: (b) (6); (b) (6); immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU
Subject: Re: [immprof] [Four] questions raised by the DACA FAQs

I read FAQ 14 as indicating that ULP only accrues upon expiration of the DACA grant.

From: (b) (6) law.georgetown.edu>
Sent: Thursday, September 7, 2017 12:53:33 PM
To: (b) (6)
Cc: (b) (6); immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU
Subject: Re: [immprof] [Four] questions raised by the DACA FAQs

My reading is that they are now treated as having been accruing ULP all along. See, e.g., FAQ 11-12.

On Thu, Sep 7, 2017 at 12:44 PM, (b) (6) wrote:

I think that they begin to accrue ULP on the day their DACA expires.

<image001.jpg>

(b) (6) Esq.

(b) (6)

[REDACTED]

[12203 East Second Avenue](#)

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www.immigrationissues.com

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From: (b) (6) @uci.edu]

Sent: Thursday, September 07, 2017 10:15 AM

To: (b) (6) immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU

Subject: Re: [immprof] [Four] questions raised by the DACA FAQs

Does this mean that DACA recipients who are over 18 are accruing unlawful presence as of 9/5?

From: (b) (6)
Sent: Thursday, September 7, 2017 8:40:21 AM
To: (b) (6); immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU
Subject: RE: [immprof] [Four] questions raised by the DACA FAQs

I've typed in my take on these questions below. Very interested to know what others think.

From: (b) (6) law.georgetown.edu
Sent: Thursday, September 07, 2017 10:42 AM
To: (b) (6) cornell.edu; immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU
Subject: Re: [immprof] [Four] questions raised by the DACA FAQs

Allow me to add a fourth question:

4. What is ICE to do w/r/t removals?

Are DACA recipients just as protected against removal--as a practical matter--as they were before Tuesday? The 2012 memo provided that "ICE and CBP **should** immediately exercise their discretion, on an individual basis, **in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.**"

That memo, however, has now been rescinded. Does (will) ICE now consider itself to continue to be bound by the directive that it "should" exercise discretion to prevent DACA recipients from removal?

No, I think it's pretty clear that ICE doesn't and won't. An ICE ERO memo issued pursuant to the John Kelly memo issued pursuant to the Border Security and Immigration Enforcement EO of January 25, stated explicitly that "[u]nder the terms of the EO, DHS will no longer exempt classes or categories of removable aliens from potential enforcement."

On Thu, Sep 7, 2017 at 10:27 AM, (b) (6) <[law.georgetown.edu](mailto:(b) (6)@law.georgetown.edu)> wrote:

I'm trying to make sense of all this, and the FAQs have raised at least three questions that I'm unclear on. I'd be very grateful for any insights.

1. Length of DACA renewals.

Will DACA renewals, for applications filed before 10/05 (and first-time DACA applications filed before 09/05) be for a two-year period, or will they expire on March 5, 2018?

(b) (6) wrote the other day that "The FAQs clearly imply that any DACA EAD renewals will run for two years; not end March 5." But I don't see where that is so clear. Presumably, (b) (6) is referring to the statement in the Answer to Q2 that "DACA benefits are generally valid for two years from the date of issuance." But that answer was in response to a question about what happens to *current* DACA holders, whose benefits might extend beyond March 5. It doesn't say anything about the length of post-09/05 renewals. (b) (6) might also be referring to Question 6, which reads "What happens when an individual's DACA benefits expire **over the course of the next two years**?" I'm not sure, however, that this formulation suggests that new approvals will last beyond March 5, 2018. Indeed, if they did last for two years, then the reference in this question should presumably have been to "the next two and a half years" (because, e.g., a DACA approval on March 1, 2018 would last until March 1, 2020). I don't see anything *specific* in the FAQ or DHS memo about the length of benefits for applications approved after September 5. Has there been any further clarification of this question from DHS?

I share your confusion on this, and did not find the FAQ to be clear AT ALL, but (b) (6) and a bunch of other knowledgeable people have reached (b) (6) conclusion that the plan is to have EAD's for anyone whose EAD expires before March 5 be renewed for 2 years assuming they file for renewal by October 5. Also, I have seen a number of news reports that make the same assumption and would think DHS would have said something by now if that was not correct (though these days who knows). Why they would choose to do it this way, I don't know. It creates inequalities between DACA recipients depending on when their EAD's happen to expire, and more crassly, it keeps the pain and agony of all this front and center in the public debate well into 2020, which would not seem to be the cleverest of political choices. But it does appear that's what they've chosen to do.

2. "Lawful presence" for purposes of Social Security/Medicare

The Answer to Q6 states: "Current law does not grant any legal status for the class of individuals who are current recipients of DACA. Recipients of DACA are currently unlawfully present in the U.S. with their removal deferred."

I read this to mean they have, quietly, reversed the position, established in Reno's 1996 rule (which I discussed [here](#)), that deferred action aliens (not only DACA recipients) are "lawfully present" for purposes of Title II Social Security benefits, and the later-promulgated rule to the same effect w/r/t Medicare. Therefore, as I read it, *all* DACA recipients will no longer be eligible for those benefits, even during the period that they are DACA-eligible. Thoughts?

I suspect this is aimed at people for whom issues of admissibility/inadmissibility might be relevant, more than at questions of Title II Social Security benefits, though who knows, it could be both. USCIS's DACA FAQ's (not FAQ's on DACA rescission, but on what it means to have DACA, which I believe predate the rescission and still seem to be up on USCIS's website), contain the following language:

Q5: If my case is deferred, am I in lawful status for the period of deferral?

A5: No. Although action on your case has been deferred and you do not accrue unlawful presence (for admissibility purposes) during the period of deferred action, deferred action does not confer any lawful status.

The fact that you are not accruing unlawful presence does not change whether you are in lawful status while you remain in the United States. However, although deferred action does not confer a lawful immigration status, your period of stay is authorized by the Department of Homeland Security while your deferred action is in effect and, for admissibility purposes, you are considered to be lawfully present in the United States during that time. **Individuals granted deferred action are not precluded by federal law from establishing domicile in the U.S.**

Apart from the immigration laws, "lawful presence," "lawful status" and similar terms are used in various other federal and state laws. For information on how those laws affect individuals who receive a favorable exercise of prosecutorial discretion under DACA, please contact the appropriate federal, state or local authorities.

I think the Q in this new FAQ is aimed at contradicting that earlier guidance.

3. ICE Use of DACA-provided information

The Answer to Q7 reads: "Information provided to USCIS in DACA requests will not be **proactively** provided to ICE and CBP for the purpose of immigration enforcement proceedings, unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA).

Is this a change in policy? The previous FAQ, now stripped from the DHS website, provided as follows:

Information provided in this request is **protected from disclosure** to ICE and CBP for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). **Individuals whose cases are deferred pursuant to DACA will not be referred to ICE.**

Is the addition of "proactively" in the new FAQ meaningful? What is its effect? Also, is it meaningful that the FAQ no longer contains the guarantee that "Individuals whose cases are deferred pursuant to DACA will not be referred to ICE"? If so, what might be the practical effect of that change in policy?

What I understand them to be saying is that if ICE wants information from the DACA file, ICE is going to get it. Previously, ICE wasn't given that info unless the DACA applicant/recipient met the 2011 criteria for NTA issuance by USCIS. What they're saying is that ICE will NOT be sent copies of all DACA files, but if ICE asks for the information USCIS will give it to them. What this means in practice, at a minimum, is that if a DACA recipient crosses ICE's radar for any reason at all—e.g. by being present when ICE comes looking for someone else in their home, by trying to pick up at the airport a friend or relative who is deemed to be inadmissible, or by having any interaction with the criminal justice system, for example—ICE will already have the wherewithal to establish alienage and deportability.

Thanks in advance, (b) (6)

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(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

From: (b) (6) [redacted] law.georgetown.edu
Sent: Thursday, September 07, 2017 10:42 AM
To: (b) (6) [redacted] cornell.edu>; immprof@lists.ucla.edu;
ICLINIC@LIST.MSU.EDU
Subject: Re: [immprof] [Four] questions raised by the DACA FAQs

Allow me to add a fourth question:

4. What is ICE to do w/r/t removals?

Are DACA recipients just as protected against removal--as a practical matter--as they were before Tuesday? The 2012 memo provided that "ICE and CBP **should** immediately exercise their discretion, on an individual basis, **in order to prevent low priority individuals from being placed into removal proceedings or removed from the United States.**"

That memo, however, has now been rescinded. Does (will) ICE now consider itself to continue to be bound by the directive that it "should" exercise discretion to prevent DACA recipients from removal?

On Thu, Sep 7, 2017 at 10:27 AM, (b) (6) [redacted] law.georgetown.edu> wrote:

I'm trying to make sense of all this, and the FAQs have raised at least three questions that I'm unclear on. I'd be very grateful for any insights.

1. Length of DACA renewals.

Will DACA renewals, for applications filed before 10/05 (and first-time DACA applications filed before 09/05) be for a two-year period, or will they expire on March 5, 2018?

(b) (6) [redacted] wrote the other day that "The FAQs clearly imply that any DACA EAD renewals will run for two years; not end March 5." But I don't see where that is so clear. Presumably (b) (6) [redacted] is referring to the statement in the Answer to Q2 that "DACA benefits are generally valid for two years from the date of issuance." But that answer was in response to a question about what happens to *current* DACA holders, whose benefits might extend beyond March 5. It doesn't say anything about the length of post-09/05 renewals. (b) (6) [redacted] might also be referring to Question 6, which reads "What happens when an individual's DACA benefits expire **over the course of the next two years?**" I'm not sure,

however, that this formulation suggests that new approvals will last beyond March 5, 2018. Indeed, if they did last for two years, then the reference in this question should presumably have been to "the next two and a half years" (because, e.g., a DACA approval on March 1, 2018 would last until March 1, 2020). I don't see anything *specific* in the FAQ or DHS memo about the length of benefits for applications approved after September 5. Has there been any further clarification of this question from DHS?

2. "Lawful presence" for purposes of Social Security/Medicare

The Answer to Q6 states: **"Current law does not grant any legal status for the class of individuals who are current recipients of DACA. Recipients of DACA are currently unlawfully present in the U.S. with their removal deferred."**

I read this to mean they have, quietly, reversed the position, established in Reno's 1996 rule (which I discussed [here](#)), that deferred action aliens (not only DACA recipients) are "lawfully present" for purposes of Title II Social Security benefits, and the later-promulgated rule to the same effect w/r/t Medicare. Therefore, as I read it, *all* DACA recipients will no longer be eligible for those benefits, even during the period that they are DACA-eligible. Thoughts?

3. ICE Use of DACA-provided information

The Answer to Q7 reads: "Information provided to USCIS in DACA requests will not be **proactively** provided to ICE and CBP for the purpose of immigration enforcement proceedings, unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA).

Is this a change in policy? The previous FAQ, now stripped from the DHS website, provided as follows:

Information provided in this request is **protected from disclosure** to ICE and CBP for the purpose of immigration enforcement proceedings unless the requestor meets the criteria for the issuance of a Notice To Appear or a referral to ICE under the criteria set forth in USCIS' Notice to Appear guidance (www.uscis.gov/NTA). **Individuals whose cases are deferred pursuant to DACA will not be referred to ICE.**

Is the addition of "proactively" in the new FAQ meaningful? What is its effect? Also, is it meaningful that the FAQ no longer contains the guarantee that "Individuals whose cases are deferred pursuant to DACA will not be referred to ICE"? If so, what might be the practical effect of that change in policy?

Thanks in advance, (b) (6)

--

(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

--

(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

--

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(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

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(b) (6)

Georgetown University Law Center

600 New Jersey Avenue, NW

Washington, DC 20001

(b) (6)

--

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Sunday, September 10, 2017 3:21 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] FW: [The Santa Fe New Mexican] ICE arrests young immigrant's sponsor months after feds assured him he'd be safe

----- Forwarded message -----

From: (b) (6) @uh.edu>
Date: Sun, Sep 10, 2017 at 9:18 AM
Subject: [immprof] FW: [The Santa Fe New Mexican] ICE arrests young immigrant's sponsor months after feds assured him he'd be safe
To: IMMPROF (UCLA) (immprof@lists.ucla.edu) <immprof@lists.ucla.edu>

[The Santa Fe New Mexican] ICE arrests young immigrant's sponsor months after feds assured him he'd be safe

http://www.santafenewmexican.com/news/local_news/ice-arrests-young-immigrant-s-sponsor-months-after-feds-assured/article_428366f5-6d03-552c-a277-93b83d3005e2.html?utm_medium=social&utm_source=email&utm_campaign=use-r-share

Fresh family law outrages from the hinterlands,

(b) (6)

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Sunday, September 10, 2017 3:21 PM
To: Noferi, Mark (EOIR)
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----- Forwarded message -----

From: (b) (6) @uh.edu>
Date: Sun, Sep 10, 2017 at 9:18 AM
Subject: [immprof] FW: [The Santa Fe New Mexican] ICE arrests young immigrant's sponsor months after feds assured him he'd be safe
To: IMMPROF (UCLA) (immprof@lists.ucla.edu) <immprof@lists.ucla.edu>

[The Santa Fe New Mexican] ICE arrests young immigrant's sponsor months after feds assured him he'd be safe

http://www.santafenewmexican.com/news/local_news/ice-arrests-young-immigrant-s-sponsor-months-after-feds-assured/article_428366f5-6d03-552c-a277-93b83d3005e2.html?utm_medium=social&utm_source=email&utm_campaign=use-r-share

Fresh family law outrages from the hinterlands,

(b) (6)

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Mark Noferi
cell (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, October 2, 2017 8:56 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Article and resource on "sanctuary" policies

----- Forwarded message -----

From: (b) (6) @law.du.edu>
Date: Mon, Oct 2, 2017 at 7:18 PM
Subject: [immprof] Article and resource on "sanctuary" policies
To: IMMPROF (UCLA) (<immprof@lists.ucla.edu>

Apologies for cross-posting

I'm excited to announce, together with (b) (6), our article [Understanding "Sanctuary Cities,"](#) forthcoming in the May 2018 edition of the Boston College Law Review. This project grew out of our collaboration immediately following the Trump election and is our effort to shed light on the sanctuary debate by examining the federal immigration enforcement tools that have provoked criminal-justice-related "sanctuary" policy measures, describing the range of those measures, and cataloging the broad rationales for those measures.

One feature of the article that many of you may find helpful is an online appendix of policies, that you can access [here](http://libguides.law.du.edu/c.php?g=705342) (<http://libguides.law.du.edu/c.php?g=705342>). We are still in the process of compiling this appendix and would be grateful if you would send any policies you think should be included along—feel free to email the PDF of any policy, or a hyperlink, or even just a description of the policy that includes the agency, approximate date, and any other information that would help us track it down. Please send these to (b) (6) law.du.edu—we are grateful for all contributions.

We hope you enjoy the article and find the online appendix useful.
Chris

=====
(b) (6)
(b) (6)
University of Denver Sturm College of Law
[2255 East Evans Avenue](#)
[Denver, CO 80208](#)
(b) (6)
(b) (6) law.du.edu

[Access my articles on SSRN](#)

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, October 19, 2017 8:34 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: The student intern jobs

Follow Up Flag: Flag for follow up
Flag Status: Flagged

----- Forwarded message -----

From: (b) (6) >
Date: Thu, Oct 19, 2017 at 2:29 PM
Subject: The student intern jobs
To: (b) (6)

Hi Mark:

Are these non paying internships in Falls Church?

Thanks,

(b) (6)

Sent from my iPhone

--

Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, November 1, 2017 9:07 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] IRCA's legislative history

----- Forwarded message -----

From: (b) (6) <(b) (6)@uci.edu>
Date: Wed, Nov 1, 2017 at 3:39 PM
Subject: Re: [immprof] IRCA's legislative history
To: (b) (6) <(b) (6)@gmail.com>, (b) (6) <(b) (6)@law.tamu.edu>
CC: (b) (6) <(b) (6)@uchastings.edu>, (b) (6) <(b) (6)@columbia.edu>, immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Another recommendation is this detailed case history of IRCA by a political scientist:

Anatomy of a public policy : the reform of contemporary American immigration law / Michael C. LeMay (1994)

LeMay offers an insightful examination of the enactment of the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990. Using the enactment of immigration policy reform ... Insights into the Policy Process; Appendix B: The Roll Call Votes Enacting IRCA; Appendix C: Analysis of ...

TOC: <http://trove.nla.gov.au/work/11699082?selectedversion=NBD10812895>

I review his book on the last page of this comparative review article in *Contemporary Sociology*: **The New Immigration**.

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1879627

--

(b) (6)
Distinguished Professor, University of California, Irvine
http://www.faculty.uci.edu/profile.cfm?faculty_id=4999

On Nov 1, 2017, at 11:51, (b) (6) wrote:

I also recommend Chapter 9 of Bill Ong Hing's book *Defining America Through Immigration Policy*. Chapter 9 specifically discusses the legislative history of IRCA.

(b) (6)

(b) (6) Esq.
Immigration Attorney/Abogado de Inmigracion

(b) (6)

<http://www.linkedin.com/pub/ram%C3%B3n-guerra/73/b3b/6a9>

THE LAW FIRM OF
RAMÓN M. GUERRA

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Long Island City, NY, 11101

Tel: (b) (6)

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On Wed, Nov 1, 2017 at 12:37 PM, (b) (6) <[@uchastings.edu](mailto:(b) (6)@uchastings.edu)> wrote:

If my recollection is not failing me I believe that AILA put out a book on this soon after passage of the Act. Otherwise you will have to wade through the many articles that discuss the topic.

(b) (6)

Sent from my iPhone

Please accept my apologies in advance for any typographical errors as this message is being typed on a small device.

On Oct 31, 2017, at 3:21 AM, (b) (6) <[@columbia.edu](mailto:(b) (6)@columbia.edu)> wrote:

(b) (6) Lobbying for Inclusion, is the best analysis of IRCA's legislative history. It's Stanford UP, I think early 2000s.

Sent from my iPhone

On Oct 31, 2017, at 2:07 AM, (b) (6) <[@law.tamu.edu](mailto:(b) (6)@law.tamu.edu)> wrote:

Friends,

Can any of you point me to a law review or other source discussing the legislative history and political debate that lead to the enactment of IRCA?

Many thanks in advance!

(b) (6)

(b) (6) | Professor of Law

Texas A&M University School of Law

[1515 Commerce Street](#)

[Fort Worth, TX 76102](#)

(b) (6) [@law.tamu.edu](#)

[law.tamu.edu](#)

<image001.png>

View my research at:

<http://ssrn.com/author=502470>

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, November 1, 2017 9:07 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] IRCA's legislative history: Interpreter Releases articles

----- Forwarded message -----

From: (b) (6) <(b) (6)@cornell.edu>
Date: Wed, Nov 1, 2017 at 2:43 PM
Subject: Re: [immprof] IRCA's legislative history: Interpreter Releases articles
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

FYI: Interpreter Releases had many articles before and after the 1986 law that may help you. Some of the articles were collected in the following book:

(b) (6) Understanding the 1986 Immigration Law (1987). The book is out of print, but you might see if you can find it through a law library.

(b) (6)

>> On Oct 31, 2017, at 2:07 AM, (b) (6) <(b) (6)@law.tamu.edu> wrote:

>>

>>> Friends,

>>>

>>> Can any of you point me to a law review or other source discussing the legislative history and political debate that lead to the enactment of IRCA?

>>>

>>> Many thanks in advance!

>>>

>>> (b) (6)

>>>

>>>

>>> (b) (6) | Professor of Law

>>> Texas A&M University School of Law

>>> 1515 Commerce Street

>>> Fort Worth, TX 76102

>>> ph: (b) (6) <(b) (6)@law.tamu.edu>

>>> -----

>>> law.tamu.edu

(b) (6)

Miller Mayer, LLP

215 East State Street, Suite 200

P.O. Box 6435

Ithaca, New York 14851-6435

Also Professor of Immigration Law Practice, Cornell Law School

(b) (6)

Phone: (b) (6)

Fax: (b) (6)

e-mail: (b) (6) @cornell.edu

WWW: <http://www.millermayer.com/>

(b) (6)

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, November 6, 2017 6:22 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] CA7 on fraud waiver: Acquaah v. Sessions

----- Forwarded message -----

From: Dan Kowalski <(b) (6)>
Date: Mon, Nov 6, 2017 at 3:14 PM
Subject: [immprof] CA7 on fraud waiver: Acquaah v. Sessions
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

<http://media.ca7.uscourts.gov/cgi-bin/rssExec.pl?Submit=Display&Path=Y2017/D11-06/C:16-3277:J:PerCuriam:aut:T:fnOp:N:2057750:S:0>

Daniel M. Kowalski

Editor-in-Chief

Bender's Immigration Bulletin (LexisNexis)

www.bibdaily.com

Twitter: @dkbib

Cell: (512) 826-0323

E-Mail: dkowalski@david-ware.com

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, November 27, 2017 1:51 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Immigrants Need Better Protection—From Their Lawyers - The Wall Street Journal.

----- Forwarded message -----

From: (b) (6) >
Date: Mon, Nov 27, 2017 at 10:05 AM
Subject: [immprof] Immigrants Need Better Protection—From Their Lawyers - The Wall Street Journal.
To: <immprof@lists.ucla.edu>

Immigrants Need Better Protection—From Their Lawyers

https://www.wsj.com/article_email/immigrants-need-better-protectionfrom-their-lawyers-1511730450-1MyQjAxMTA3ODIyNzMyMDcxWj/

Download the Wall Street Journal app here: [WSJ](#).

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, November 30, 2017 11:12 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] New Jotwell Posts

----- Forwarded message -----

From: (b) (6) <[redacted]@widener.edu>
Date: Thu, Nov 30, 2017 at 7:41 AM
Subject: [immprof] New Jotwell Posts
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

My review of (b) (6) Administrator in Chief: <https://lex.jotwell.com/procedure-matters/>

And I don't think I ever circulated (b) (6)' review of Kerry Abrams' Family Reunification and the Security State: <https://lex.jotwell.com/protecting-the-right-to-family-life-in-immigration-law/>

Always great to celebrate immigration law scholarship!!!

(b) (6)

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, December 20, 2017 5:56 PM
To: (b) (6) EOIR
Subject: Fwd: [immprof] EOIR issues new OPPM on juveniles
Attachments: OPPM 17-03.pdf

----- Forwarded message -----

From: Dan Kowalski (b) (6)
Date: Wed, Dec 20, 2017 at 1:20 PM
Subject: [immprof] EOIR issues new OPPM on juveniles
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

From: (b) (6) @NYLS.EDU]
Sent: Wednesday, December 20, 2017 9:28 AM
To: ICLINIC@LIST.MSU.EDU
Subject: [ICLINIC] EOIR issues new OPPM on juveniles

Issued today. EOIR instructions on procedures in juvenile cases. Modifies some prior provisions.

(b) (6)

Professor of Law; (b) (6)

New York Law School

185 West Broadway, C 240

New York, NY 10013

(b) (6)

(b) (6)

(b) (6)



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Mark Noferi

cell (b) (6)



Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, December 21, 2017 12:42 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Immigration Fellow position announcement
Attachments: MSU Immigration Fellow 2018.pdf

----- Forwarded message -----

From: (b) (6) <[@law.msu.edu](mailto:(b) (6)@law.msu.edu)>
Date: Thu, Dec 21, 2017 at 12:05 PM
Subject: [immprof] Immigration Fellow position announcement
To: Immprof Listserv (immprof@lists.ucla.edu) <immprof@lists.ucla.edu>

Though we are happy that our current Fellow, (b) (6), has accepted a tenure-track position to direct the Immigration Clinic at the at the University of Arkansas School of Law starting next year, this does mean that we must begin a search for our next Fellow.

Please share the attached posting widely with any colleagues or former students who might be interested.

Thank you.

(b) (6)

(b) (6)

Professor of Law

(b) (6)

Michigan State University College of Law

(b) (6)

(b) (6) <[@law.msu.edu](mailto:(b) (6)@law.msu.edu)>

Street Address:

648 North Shaw Lane

East Lansing, MI 48824

Mailing Address:

MSU Law Clinic

PO Box 1570

East Lansing, MI 48826

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, January 12, 2018 5:49 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Supreme Court granted cert. this afternoon in stop-time rule case from 1st Circuit

----- Forwarded message -----

From: (b) (6) @law.utexas.edu>
Date: Fri, Jan 12, 2018 at 3:25 PM
Subject: [immprof] Supreme Court granted cert. this afternoon in stop-time rule case from 1st Circuit
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

**WESCLEY FONSECA PEREIRA, Petitioner, v. JEFFERSON B. SESSIONS III,*
ATTORNEY GENERAL OF THE UNITED STATES, Respondent.**

Docket No.: 17-459

=====

(b) (6)	(b) (6)
University of Texas School of Law	FAX: (b) (6)
727 East Dean Keeton Street	
Austin, Texas 78705	(b) (6) utexas.edu

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immprof+unsubscribe@lists.ucla.edu.

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, January 16, 2018 11:08 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] RE: Judge (b) (6) enjoins DACA rescission!
Attachments: image001.png

----- Forwarded message -----

From: (b) (6) <[@dsl.psu.edu](mailto:(b)(6)@dsl.psu.edu)>
Date: Fri, Jan 12, 2018 at 10:41 AM
Subject: [immprof] RE: Judge (b) (6) enjoins DACA rescission!
To: (b) (6) <[@law.gwu.edu](mailto:(b)(6)@law.gwu.edu)>, (b) (6) <[@case.edu](mailto:(b)(6)@case.edu)>
CC: (b) (6) <[@lclark.edu](mailto:(b)(6)@lclark.edu)>, (b) (6) <[@law.georgetown.edu](mailto:(b)(6)@law.georgetown.edu)>, Immigration Law Professors List <immprof@lists.ucla.edu>, Admin <adminlaw@chicagokent.kentlaw.edu>, (b) (6) <[@nyu.edu](mailto:(b)(6)@nyu.edu)>, (b) (6) <[@yale.edu](mailto:(b)(6)@yale.edu)>

I think the question and answer is more complicated for three reasons:

- 1) Through and through, the administration has used the law and only the law to conclude that it “must” end DACA because it exceeds statutory and constitutional boundaries – the multiple legal flaws in this drumbeat mantra by the administration complicates/taints any later decision to end it for policy reasons
- 2) As a *policy* matter, the administration has only embraced and supported DACA recipients and encouraged Congress to provide a permanent solution – the paper trail is a long one
- 3) Even if an about face change by the administration to end DACA for policy reasons were plausible and accepted, this does not change the legal claims brought by the class regarding reviewability, standing, notice and so on (which in my view were properly analyzed in Judge Alsup’s opinion)

Nevertheless, I support the conclusion that the administration would have had an “easier” time ending DACA had it all along been for policy reasons.

(b) (6)

(b) (6)

Phone: (b) (6) | Email: (b) (6)@psu.edu

329 Innovation Blvd., Suite 118 | University Park, PA 16802

(b) (6)



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From: owner-adminlaw@chicagokent.kentlaw.edu [mailto:owner-adminlaw@chicagokent.kentlaw.edu] On Behalf Of (b) (6)

Sent: Friday, January 12, 2018 9:29 AM

To: (b) (6)@case.edu>

Cc: (b) (6)@lclark.edu>; (b) (6)@law.georgetown.edu>; Immigration Law Professors List <immprof@lists.ucla.edu>; Admin <adminlaw@chicagokent.kentlaw.edu>; (b) (6) <(b) (6)@nyu.edu>; (b) (6)@yale.edu>

Subject: Re: Judge Alsup enjoins DACA rescission!

I think (b) (6) is right. That is basically Chenery II. A court would then have to decide whether the reason the agency gives is adequate and consistent with law.

(b) (6)

Professor of Law
George Washington University
School of Law
[2000 H Street, N.W.](#)
[Washington, D.C. 20052](#)

(b) (6)

On Fri, Jan 12, 2018 at 5:46 AM, (b) (6) <[@case.edu](mailto:(b) (6)@case.edu)> wrote:

I've been puzzling over the Mass v. EPA comparison for the following reason: The EPA's error of law in this case was only relevant because the basis upon which the EPA refused to act was contrary to statute. That is, had the EPA offered a proper justification for refusing to regulate or -- as is arguably the case with DACA -- had the discretion whether or not to regulate CO2, there would have been no basis for remanding the EPA's action. As it happened, the EPA did offer an explanation for why they would not regulate CO2, and a perfectly reasonable one. The problem was that it was not consistent with the statute, which is not a claim that can be made about the DACA rescission.

So, in this case, if we accept that DACA is an exercise of permissible enforcement discretion (i.e. both that it was within the executive branch's authority and that no notice-and-comment was required to adopt the policy), then the only failing in the rescission is the Administration's failure to include a line that says "And, even if we are wrong about the scope of our authority under existing law, we would still utilize our enforcement discretion to rescind DACA because we believe that this is the sort of immigration policy question that is best resolved by Congress and that should be approved legislatively."

What this would mean is that the Administration could readopt the policy by adding a single sentence to the rescission memo tomorrow.

What am I missing?

(b) (6)

(b) (6)

Case Western Reserve University School of Law
[11075 East Boulevard](#)
[Cleveland, OH 44106](#)

(b) (6)

(b) [@case.edu](#)

(b) (6)

On Wed, Jan 10, 2018 at 5:27 PM, (b) (6) [@lclark.edu](#) wrote:

I don't think "arbitrary and capricious" is probably the best characterization of the mistake of law involved in this case. The APA provides for setting aside agency action if it is "arbitrary, capricious, or otherwise *not in accordance with law*." If the Director of Homeland Security takes action -- ending the DACA program -- on the sole basis that the program is unlawful, but that basis is legally incorrect, then setting aside the program would seem to be not in accordance with law -- a decision based on an error of law. To my mind, this is like *Massachusetts v. EPA*, in which EPA said it did not have the legal authority to regulate CO2 and that is why it was denying the state's petition for rulemaking. The Court found that decision unlawful, because the Court found that EPA did have the authority to regulate CO2. It didn't characterize that mistake of law as arbitrary or capricious; it was simply an error of law.

(b) (6)

On 1/10/2018 12:37 PM, (b) (6) wrote:

(b) (6) [argues](#) that it's not arbitrary or capricious, even if it *is* predicated on a mistake of law (i.e., a disagreement by the court with the AG's legal reasoning). This actually tees up exactly the issue I asked about over the summer on the AdLaw list:

Let's say the AG is not persuaded by the district judge's reading of the INA--or the court of appeals' reasoning, either, assuming that court rules likewise. Sessions continues to read the statute as he did in his amicus brief as Senator in the DAPA case--as precluding, in particular,

work authorization. He conveys his views to the Secretary of DHS -- "Judge Alsup is wrong -- DACA is unauthorized (especially work authorization)." And she decides to go with the AG's view of the law, not the lower courts' view. Is that choice arbitrary or capricious? Alsup says it is, because it's based on a "mistake of law." But that begs the question, seeing as how Sessions continues to believe it's *not* a mistake of law.

(b) (6) and I were somewhat agnostic about this question in the penultimate graf of our post -- we principally pointed to the *Safe Air For Everyone v. EPA* case, 488 F.3d 1088, 1101 (9th Cir. 2007), because that's the only one I could find that appeared to be squarely on-point. Alsup cites it, too. I still don't have a strong view, however, whether the CT9 was correct in that case about moving from "we disagree on the law" to "therefore, it's A&C."

Thoughts? Does it matter that, as far as I know, the AG and DOJ to this day have not offered the public, or the courts, or the DHS Secretary, any *explanation* of why the AG has reached his conclusion that DACA is unlawful?

On Wed, Jan 10, 2018 at 12:03 AM, (b) (6)
(b) (6) @law.georgetown.edu> wrote:

Here, basically for the reasons that (b) (6) and I suggested:

1. The rescission was predicated on Sessions's conclusion that DACA is unauthorized/unlawful.
2. But he's wrong: it's statutorily authorized and thus lawful (especially the key work authorization).
3. Rescission based on "mistake of law" is arbitrary and capricious.
4. Doesn't mean DHS Secretary can't now rescind it for policy-based reasons--but then again, her boss, the POTUS, claims that DACA is a good policy!

It's a bit more complicated than that . . . but that's the gist.

--

(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

--

(b) (6)

Georgetown University Law Center

[600 New Jersey Avenue, NW](#)

[Washington, DC 20001](#)

(b) (6)

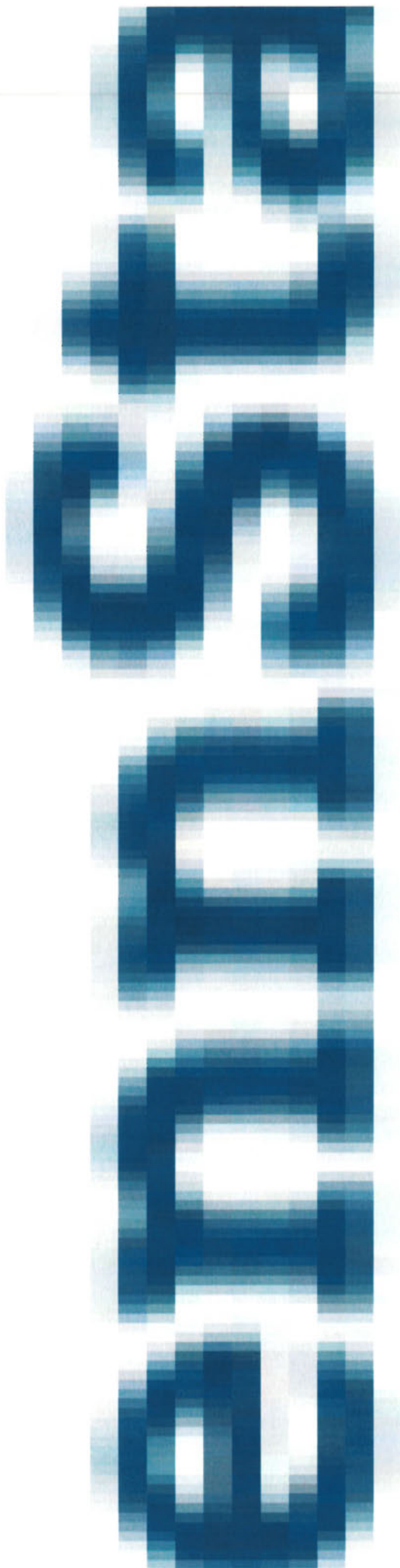
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Mark Noferi

cell: (b) (6)



Noferi, Mark (EOIR)

From: Mark Noferi ([REDACTED])
Sent: Thursday, January 18, 2018 11:23 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] FW: LAWSUIT FILED: We're demanding the immigration judges hold bond hearings for immigrants.

----- Forwarded message -----

From: Dan Kowalski ([REDACTED])
Date: Thu, Jan 18, 2018 at 10:38 AM
Subject: [immprof] FW: LAWSUIT FILED: We're demanding the immigration judges hold bond hearings for immigrants.
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

From: ([REDACTED]), American Immigration Council [mailto:[REDACTED]]
Sent: Thursday, January 18, 2018 8:30 AM
To: Dan Kowalski
Subject: LAWSUIT FILED: We're demanding the immigration judges hold bond hearings for immigrants.



Daniel,

Immigration judges must conduct bond hearings to determine whether a person will be detained or free during immigration proceedings.

But in Charlotte, North Carolina, three sitting immigration judges are refusing to conduct those hearings.

Denying noncitizens their right to a bond hearing forces many to remain in detention for several weeks. This can have a devastating impact on their cases, their families and their communities.

And for years, the Department of Justice has known about the judges' refusal to conduct bond hearings. Yet, they haven't taken any action to correct this unlawful practice.

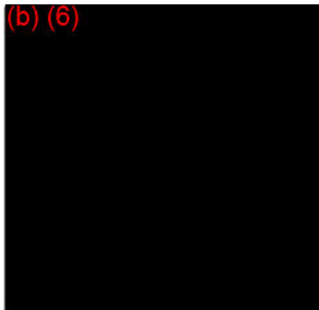
We are suing to stop this unconstitutional practice. We've filed a lawsuit demanding these judges fulfill their duties.

Read the Complaint

Rogue immigration judges cannot refuse to do their jobs. The vital bond hearing process—enshrined in statute and the Constitution—cannot be eliminated.

Sincerely,

(b) (6)

A large black rectangular redaction box covering the signature of the sender.

(b) (6)

A small black rectangular redaction box covering the name of the sender.

Directing Attorney, Boston Office

Make a Contribution



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[1331 G St. NW Suite 200. Washington, D.C., 20005](#)

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, January 23, 2018 3:09 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Administrative law judges at SCOTUS?

----- Forwarded message -----

From: (b) (6)
Date: Tue, Jan 23, 2018 at 1:40 PM
Subject: [immprof] Administrative law judges at SCOTUS?
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

I'm not an administrative law expert at all, but am wondering if those on this list who are have thoughts on whether this SCOTUS case may have an impact on immigration court?

<https://www.reuters.com/article/us-usa-court-sec/u-s-supreme-court-takes-up-challenge-to-sec-in-house-judges-idUSKBN1F12JC>

-- (b) (6)

(b) (6)

(b) (6)

Immigrant Justice Corps

[17 Battery Place, Ste. 236](#)

[New York, NY 10004](#)

Office phone: (b) (6)

Direct line: (b) (6)

(b) (6)

www.justicecorps.org

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, February 6, 2018 12:46 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] (b) (6) On EOIR Training – immigrationcourtside.com

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From: Dan Kowalski (b) (6)
Date: Tue, Feb 6, 2018 at 10:37 AM
Subject: [immprof] (b) (6) Commentary On EOIR Training – immigrationcourtside.com
To: Immigration Law Professors List <immprof@lists.ucla.edu>
CC: (b) (6)

<http://immigrationcourtside.com/2018/02/05/hon-jeffrey-chase-matter-of-w-y-c-h-o-b-the-unresolved-tension-in-asylum-adjudication-plus-my-added-commentary-on-eoir-training/>

"... (b) (6) points out the pressing need for better “specialized training” in asylum adjudication for Immigration Judges at both the BIA and Immigration Court levels. Sadly, however, DOJ & EOIR appear to be moving in exactly the opposite direction.

Last year, notwithstanding the addition of many new Immigration Judges and retirement of some of the most experienced Immigration Judges, DOJ cancelled the nationwide Immigration Judge Conference, the only “off the bench” training that most Judges get.

Cancellation of the annual training conference or resort to ridiculously amateurish “CD training” was a fairly regular occurrence in the “Post-Moscato Era” (post-2000) of EOIR.

Too often so-called “asylum training” at EOIR was conducted by DOJ Attorneys from the Office of Immigration Litigation (“OIL”), Board Members, or Board Staff. The emphasis was basically on “how to write denials that will stand up on appeal” rather than how to recognize and grant legally required protection.

Immigration Judges with “special insights” into the situation of asylum seekers seldom were invited to be speakers. For example, one of my most distinguished colleagues was Judge Dana Leigh Marks of the San Francisco Immigration Court. Judge Marks successfully represented the applicant in the landmark U.S. Supreme Court case *INS v. Cardoza-Fonseca*, [480 U.S. 421](#) (1987) (as the INS Deputy G.C. & Acting G.C. I was helping the Solicitor General with the “losing argument” in behalf of my “client.”) *Cardoza-Fonseca* established the “well founded fear” standard for asylum and probably is the most important case in the history of U.S. asylum law. Yet, I never remember hearing Judge Marks on any panel at the Annual Conference, let alone one dealing with asylum.

One notable exception were the “mandatory” presentations by the U.S. Commission on International Religious Freedom (“USCIRF”), an independent Government agency. Led by Senior Advisor on Refugee Issues Mark Hetfield (now President and CEO of HIAS) the USCIRF provided examples of bias in asylum adjudication and explained how Immigration Judges and the BIA sometimes erred by filtering religious claims through our “Americanized Judeo-Christian prism” instead of taking time to understand the unique conditions affecting

religion and religious freedom in each country.

There was never much positive follow-up on the USCIRF observations. I was probably one of the few Immigration Judges who regularly consulted and discussed the reports and findings of the USCIRF in my decision-making (even many experienced asylum advocates often overlooked this invaluable resource).

I remember at my "Immigration Judge Basic Training" in 2003 being told to prepare for the fact that most of my "oral decisions" would be asylum denials. I was skeptical then and found that quite to the contrary, the majority of asylum cases that got to Individual Hearing in Arlington were eminently "grantable." Pretty much as I had unsuccessfully argued for years with my colleagues while I was on the BIA. For the most part, the U.S. Courts of Appeals eventually reaffirmed much of what my long-since banished "dissenting colleagues" and I had been saying all along about the overly restrictive application of U.S. asylum law by the BIA and many U.S. Immigration Judges.

There is absolutely nothing in the recent anti-asylum campaign (based on distorted narratives, no facts, or just plain intentional misinformation) by Attorney General Jeff Sessions and EOIR leadership that would lead me to believe that any type of fair, professional, properly balanced asylum training for Immigration Judges and BIA Appellate Immigration Judges is in the offing.

All of this adds up to the pressing need for the elimination of USDOJ control over the U.S. Immigration Courts, the creation of an independent U.S. Immigration Court, and the restructuring of the Immigration Courts into a true Due Process oriented court system, rather than a mere "whistle-stop on the deportation railroad!"
PWS

02-05-18"

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, February 9, 2018 2:49 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Fw: New JMHS Article | Immigration Governance for the Twenty-First Century

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From: (b) (6) <[@law.villanova.edu](mailto:(b)(6)@law.villanova.edu)>
Date: Fri, Feb 9, 2018 at 1:27 PM
Subject: [immprof] Fw: New JMHS Article | Immigration Governance for the Twenty-First Century
To: ImmProf <immprof@lists.ucla.edu>

New from JMHS | Immigration Governance for the Twenty-First Century

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Journal on Migration and Human Security

A publication of the Center for Migration Studies

Donald Kerwin, Executive Editor
John Hoeffner and Michele Pistone, Associate Editors

Immigration Governance for the Twenty-First Century

By Ruth Ellen Wasem (The University of Texas at Austin)

The system of US immigration governance is administered by several agencies and departments across the federal government, with no clear chain of command or single department that captures the reach of the Immigration and Nationality Act. This paper studies the administration of immigration law and policy while looking towards immigration governance for the future. It opens with a historical overview that provides the backdrop for the current fragmented system of immigration governance. It then breaks down the missions and functions of the Immigration and Nationality Act by the lead agencies tasked with these responsibilities. The paper concludes with an analysis of options for improving the current system, such as: reorganizing and expanding governance by creating an Interagency Council on Immigration

interagency; consolidating governance by creating an independent immigration agency; or tweaking the current system through critical reforms.

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More from JMHS

Twenty Years After IIRIRA: The Rise of Immigrant Detention and Its Effects on Latinx Communities Across the Nation

By Melina Juárez (University of New Mexico), Bárbara Gómez-Aguñaga (University of New Mexico), and Sonia P. Bettez (University of New Mexico)

This paper argues that the Illegal Immigration Reform and Immigrant Responsibility's (IIRIRA) detention mandate, special interest groups, and major federal policies have come together to fuel the expansion of immigrant detention to unprecedented levels. It discusses the implications of the growth in immigrant detention for human rights, legislative representation, and democracy in the United States. This study analyzes two main questions: What is the role of special interests in the criminalization of immigrants? Does the rapid increase in detention pose challenges or risks to democracy? The paper uses a unique dataset to reveal that major restrictive federal immigration policies such as IIRIRA and the increasing federal immigration enforcement budget have had a significant impact on immigrant detention rates. Based on these findings, the paper recommends: 1) increased transparency and accountability in data management from the Department of Homeland Security and on lobbying expenditures from for-profit detention corporations, 2) the repeal of mandatory detention laws, and 3) the repeal of the Congressional detention bed mandate.

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About the Journal

The *Journal on Migration and Human Security (JMHS)* is an online, peer-reviewed public policy publication of the Center for Migration Studies. *JMHS* addresses timely migration-related issues, scholarship and analysis that receive insufficient attention in US and international policy debates. *JMHS* draws upon the knowledge, expertise and perspectives of scholars, public officials, faith communities, community-based organizations, non-governmental organizations, corporate leaders and others. The journal's theme of "human security" is meant to evoke the widely shared goals of creating secure and sustaining conditions in migrant sending communities; promoting safe, legal migration options; and developing immigration and integration policies that benefit sending and receiving communities and allow newcomers to lead productive, secure lives.

JMHS welcomes evidence-based papers that contain well-supported policy ideas. Information regarding submissions can be found at <http://cmsny.org/jmhs/submission-guidelines/>.

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Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, March 8, 2018 7:37 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] SESSIONS "GOES DEEP" TO UNDERMINE DUE PROCESS! — Matter of E-F-H-L-, 27 I&N Dec. 226 (A.G. 2018)! – immigrationcourtside.com

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From: (b) (6) <[@unlv.nevada.edu](mailto:(b) (6)@unlv.nevada.edu)>
Date: Thu, Mar 8, 2018 at 1:45 AM
Subject: Re: [immprof] SESSIONS "GOES DEEP" TO UNDERMINE DUE PROCESS! — Matter of E-F-H-L-, 27 I&N Dec. 226 (A.G. 2018)! – immigrationcourtside.com
To: (b) (6)
CC: (b) (6) <[@widener.edu](mailto:(b) (6)@widener.edu)>, immprof@lists.ucla.edu <immprof@lists.ucla.edu>

I very much agree with (b) (6) that there is potential for alliance between critics of *Chevron* deference and immigrants. I tend to think that we have little choice but to appeal to this line of thinking. I highly recommend her paper on this ([here](#)).

While some judges (including Gorsuch) would be happy to throw *Chevron* out entirely, that may not be entirely necessary. I have a [paper](#) coming out showing that the Court has been implicitly reluctant about *Chevron* in removal cases for quite awhile — but not in all immigration cases. The key may be to help the Court explain why deference makes sense in some administrative law contexts, but not in others.

(b) (6)

(b) (6)

Professor of Law

(b) (6)

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Las Vegas, NV 89170-1075

(b) (6)

fax

Learn more about me: (b) (6)

Learn more about the UNLV Immigration Clinic: <https://law.unlv.edu/clinics/immigration>

On Mar 6, 2018, at 5:48 PM, (b) (6) wrote:

I have previously wondered here - I believe in posts here discussing Gorsuch's 10th circuit *Chevron* position - whether his position, regrettably, is one we (or I) would welcome. Ordinarily, I would caution against throwing out the baby with the

administrative state bath water, but today's conditions make placing limitations on the Executive very attractive.

Here is my brief article on the AG's decision in E-F-H-

L: [http://blogs.ilw.com/entry.php?10427-Much-Sound-and-Fury-Matter-of-E-F-H-L-27-I-amp-N-Dec-226-\(A-G-2018\)](http://blogs.ilw.com/entry.php?10427-Much-Sound-and-Fury-Matter-of-E-F-H-L-27-I-amp-N-Dec-226-(A-G-2018)).

(b) (6)

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On Tue, Mar 6, 2018 at 4:03 PM, (b) (6) <[@widener.edu](mailto:(b) (6)@widener.edu)> wrote:

Yes- exactly. There is a re-energized movement in administrative law to reduce the power of administrative agencies through various means and to various degrees. My article links that phenomenon to immigration law.

On Mar 6, 2018, at 1:58 PM, (b) (6) > wrote:

(b) (6) your point corresponds interestingly to Justice Gorsuch's expressed view on Chevron in relation to the degree of agency power and authority accorded.

(b) (6)

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Senior Attorney and Advisor

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Admitted in MA and DC

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On Tue, Mar 6, 2018 at 1:03 PM, (b) (6) <[@widener.edu](mailto:(b) (6)@widener.edu)> wrote:
In the below post and the article mentioned in it, I explore how efforts like these go against what the administration is seeking in other aspects of administrative law. Government power through administrative law is a major threat, but not in the context of immigrants?

<http://yalejreg.com/nc/due-process-fair-notice-and-individual-liberty-for-immigrants-too/>

There are also some questions in reverse: if government power is concerning in immigration law, should it be in other areas of administrative law as well?

(b)

On Mar 6, 2018, at 9:15 AM, Dan Kowalski <dkowalski@david-ware.com> wrote:

<http://immigrationcourtside.com/2018/03/06/sessions-goes-deep-to-undermine-due-process-matter-of-e-f-h-l-27-in-dec-226-a-g-2018/>

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, March 9, 2018 4:59 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] no transparency on Matter of A-B-

----- Forwarded message -----

From: (b) (6) >
Date: Fri, Mar 9, 2018 at 10:23 AM
Subject: Re: [immprof] no transparency on Matter of A-B-
To: (b) (6) >
CC: (b) (6) <@central.uh.edu>, (b) (6) <@uchastings.edu>, (b) (6) <immprof@lists.ucla.edu> <immprof@lists.ucla.edu>

Yes, I considered that yesterday. Does it really matter? Either way we need the lawyers name - and in that case the pleadings, IJ decision, etc.

(b) (6), Esq.
IDEAS Consultation & Coaching
Empowering Strategies for Attorneys

(b) (6)

Phone: (b) (6)
Mobile: (b) (6)

BE EMPOWERED ♦ MAKE A DIFFERENCE

On Mar 9, 2018, at 9:57 AM, (b) (6) > wrote:

A disturbing thought but I'm pretty sure not the case here—the AG's decision says the Board's decision is stayed pending his review, which surely means there was in fact a decision.

From: (b) (6) <@Central.UH.EDU>
Sent: Friday, March 9, 2018 9:18:06 AM
To: (b) (6)
Cc: immprof@lists.ucla.edu
Subject: RE: [immprof] no transparency on Matter of A-B-

Is there any possibility that A-B hasn't been decided yet, and the AG is taking it away pre-decision by the BIA?

The pertinent regulation 8 CFR 1003.1 says the "shall refer to the AG for review of its decision" but I would not be surprised if the reg was being interpreted more broadly

I think we ought to consider the possibility.

(b) (6)

From: (b) (6) [redacted]@uchastings.edu]
Sent: Friday, March 9, 2018 12:07 AM
To: (b) (6) [redacted]
Cc: Dan Kowalski <dkowalski@david-ware.com>; immprof@lists.ucla.edu
Subject: Re: [immprof] no transparency on Matter of A-B-

I agree a lawsuit is the only thing they understand.

On Mar 8, 2018, at 2:28 PM, (b) (6) [redacted] >> wrote:

sue.

On Thu, Mar 8, 2018 at 8:50 AM, Dan Kowalski <dkowalski@david-ware.com<<mailto:dkowalski@david-ware.com>>> wrote:
8 March 2018

Just got off the phone with the amicus coordinator at the BIA.

They are "not at liberty" to disclose the name/address of the attorney of record.

They claim that filing any amicus brief in triplicate will assure service on the attorney of record.

They referred all further inquiries/complaints to the A.G.'s office.

This is unacceptable. We must find a way to pressure Sessions into releasing the BIA decision and the underlying IJ decision, and the name/address of the attorney.

Daniel M. Kowalski
Editor-in-Chief
Bender's Immigration Bulletin (LexisNexis)
www.bibdaily.com<<http://www.bibdaily.com>>
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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, March 8, 2018 12:52 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] RE: no transparency on Matter of A-B-

----- Forwarded message -----

From: (b) (6) >
Date: Thu, Mar 8, 2018 at 11:18 AM
Subject: RE: [immprof] RE: no transparency on Matter of A-B-
To: (b) (6)
CC: Dan Kowalski <dkowalski@david-ware.com>, immprof@lists.ucla.edu <immprof@lists.ucla.edu>, (b) (6)
(b) (6)

We have no idea what PSGs (if any) this attorney actually asserted, or whether the AG's framing of the question upon certification accurately reflects what the applicant was arguing or what the BIA previously held, or when this case was briefed to the Board, or anything really. This is insane.

Is someone already filing a FOIA? If not it seems to me that would be one quick step—and have it filed by someone who's prepared to litigate it if there's not a quick response.

I am drafting a letter to the AG expressing consternation about the way all this is being done, to circulate for sign-on to concerned NGO's and any interested law profs; will circulate draft in a few hours hopefully.

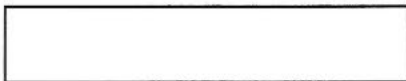
From: (b) (6) > On Behalf Of (b) (6)
Sent: Thursday, March 08, 2018 11:10 AM
To: (b) (6)
Cc: Dan Kowalski <dkowalski@david-ware.com>, immprof@lists.ucla.edu; (b) (6)
(b) (6)
Subject: Re: [immprof] RE: no transparency on Matter of A-B-

This is more than outrageous. Decisions of the Board are supposed to be open to the public, and redaction of the attorney's name is not part of the confidentiality protection.

Not only are we entitled to know the attorney's name, but we are entitled to know the circuit in which this matter arises, as the particular circuit law makes a difference in addressing the law.

This is not simply a question of law. It is a law/fact issue. I suppose that means my answer would be "yes," a crime or an act perpetrated by criminals can be the basis for a PSG, as long as it meets the other BIA factors. For that matter, actors outside the government's control, i.e., guerrillas, always commit "crimes" and the perpetration of those offenses can be the persecution that is targeted at the PSG

Maybe advocates should file a Matter of Lozada complaint against the unidentified attorney as one argument, for failing to assert all possible PSGs under the BIA's recent decision in WYC and HOB.



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(b) (6)



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(b) (6)

www.immigrantdefenders.com



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(b) (6)

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On Thu, Mar 8, 2018 at 10:55 AM, (b) (6) wrote:

This is really outrageous. The BIA just held in Matter of W-Y-C & H-O-B that it can't address a new PSG on appeal because the formulation of the PSG is fact-specific and requires testimony. Maybe advocates should file a single amicus brief citing W-Y-C & H-O-B and stating that it is not possible to address this issue without facts, or invite the A.G. to vacate W-Y-C & H-O-B.

Best wishes,

(b) (6)

(b) (6)

(b) (6)

Defending Vulnerable Populations

Catholic Legal Immigration Network, Inc. (CLINIC)

8757 Georgia Avenue, Suite 850*

Silver Spring, MD 20910

Phone: (b) (6)

Email: (b) (6)

Website: www.cliniclegal.org

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May 30 – June 1, 2018 | Tucson, AZ

cliniclegal.org/convening

*working remotely from New York

From: Dan Kowalski [mailto:dkowalski@david-ware.com]
Sent: Thursday, March 8, 2018 10:51 AM
To: immprof@lists.ucla.edu
Subject: [immprof] no transparency on Matter of A-B-
Importance: High

8 March 2018

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Daniel M. Kowalski

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immprof+unsubscribe@lists.ucla.edu.

--
Mark Noferi
cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, March 9, 2018 5:00 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] RE: no transparency on Matter of A-B-

----- Forwarded message -----

From: (b) (6) >
Date: Thu, Mar 8, 2018 at 10:19 PM
Subject: Re: [immprof] RE: no transparency on Matter of A-B-
To: (b) (6)
CC: Dan Kowalski <dkowalski@david-ware.com>, immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Let me try and forward your letter to our group of 14 (formed around various former IJ amicus briefs we recently signed). I'll see if (b) (6) or (b) (6) can do it.

In the meantime I'm be, please add me to the letter. I sign lately as :

(b) (6) (ret.)
IDEAS Consultation & Coaching
Immigrant Defenders Law Group, PLLC

(b) (6), Esq.
IDEAS Consultation & Coaching
Empowering Strategies for Attorneys
(b) (6)
Phone: (b) (6) 7
Mobile: (b) (6)
BE EMPOWERED ♦ MAKE A DIFFERENCE

On Mar 8, 2018, at 5:36 PM, (b) (6) > wrote:

You'd be very welcome—some you have been absorbed or semi-absorbed by academia, and if so you can put yourselves in that category, but we would very much welcome sign-on for non-academic former/retired IJ's and BIA members. Anyone in this category, if you could just sign on by responding to me off-list, rather than tangling with the google docs form that may not capture your situation, that would be great. I can tweak the intro to the letter to reflect this.

From: (b) (6) >
Sent: Thursday, March 08, 2018 5:28 PM

To: (b) (6) >
Cc: Dan Kowalski <dkowalski@david-ware.com>; immprof@lists.ucla.edu
Subject: Re: [immprof] RE: no transparency on Matter of A-B-

What about from former IJ and BIA judges?

(b) (6), Esq.

IDEAS Consultation & Coaching

Empowering Strategies for Attorneys

(b) (6)

(b) (6)

Phone: (b) (6)

Mobile: (b) (6)

BE EMPOWERED ♦ MAKE A DIFFERENCE

On Mar 8, 2018, at 5:25 PM, (b) (6) > wrote:

Hello all,

With apologies for cross-posting, we have drafted a sign-on letter on behalf of Human Rights First on the referral process in Matter of A-B-, complaining about the lack of transparency and asking for a copy of the underlying decision.

We are looking for sign-ons from concerned NGO's and immigration professors. For NGO's, we are taking organizational sign-ons, for immprof's, individual ones, but asking you to identify your school for purposes of identification only.

You can find a link to the text, and a link to sign onto the letter, below. **With many apologies for the tight turnaround, imposed on us by circumstance, we**

are asking for sign-ons by noon tomorrow, Friday, March 9. There are a couple of formatting quirks due to the transfer of the text to google docs--these will be fixed before the letter is sent.

[Letter text](#)

[Sign on form](#)

Thanks so much,

(b) (6)

From: Dan Kowalski <dkowalski@david-ware.com>
Sent: Thursday, March 08, 2018 10:51 AM
To: immprof@lists.ucla.edu
Subject: [immprof] no transparency on Matter of A-B-
Importance: High

8 March 2018

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Mark Noferi

cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, April 2, 2018 6:17 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Quotas in Immigration Court

----- Forwarded message -----

From: (b) (6) <[REDACTED]@wfu.edu>
Date: Mon, Apr 2, 2018 at 5:59 PM
Subject: Re: [immprof] Quotas in Immigration Court
To: (b) (6) <[REDACTED]>
CC: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

Attempts to impose quotas on agency adjudicators and other efforts and managerial control arise in other administrative contexts as well, and have been studied extensively in the context of social security disability adjudication. I discuss this parallel, and situate controversies regarding control of immigration judges in the broader administrative law context, in my essay "*Refugee Roulette in an Administrative Law Context: The Deja Vu of Decisional Disparities in Agency Adjudication*," 60 Stan. L. Rev. 475 (2007). The essay is available at this link: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1148298

Margaret

On Mon, Apr 2, 2018 at 5:51 PM, (b) (6) <[REDACTED]> wrote:

More bad news from Sessions.

Does anyone know whether other Executive branch judges are given case quotas to meet?

Best wishes,

(b) (6)

(b) (6)

(b) (6)

Defending Vulnerable Populations

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(b) (6) wfu.edu

(b) (6)

Professor of Law
Wake Forest University School of Law
P.O. Box 7206
Winston Salem, NC 27109

(b) (6)

(b) (6)

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Sent: Monday, April 2, 2018 6:17 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Quotas in Immigration Court
Attachments: WSJ - New Quotas for Immigration Judges as Trump Administration Seeks Faster Deportations.pdf

----- Forwarded message -----

From: (b) (6) >
Date: Mon, Apr 2, 2018 at 5:51 PM
Subject: [immprof] Quotas in Immigration Court
To: immprof@lists.ucla.edu <immprof@lists.ucla.edu>

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Mark Noferi

cell: (b) (6)

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<https://www.wsj.com/articles/immigration-judges-face-new-quotas-in-bid-to-speed-deportations-1522696158>

POLITICS

New Quotas for Immigration Judges as Trump Administration Seeks Faster Deportations

Rules were laid out in a message sent Friday to immigration judges



Attorney General Jeff Sessions PHOTO: YURI GRIPAS/REUTERS

By *Laura Meckler*

Updated April 2, 2018 4:50 p.m. ET

WASHINGTON—The Justice Department has notified immigration judges that it will begin evaluating their job performance based on how quickly they close cases, aiming to speed deportation decisions and reduce a lengthy backlog.

The new quotas for judges to meet—laid out in a memo sent Friday to immigration judges—follow other directives by the department to expedite handling of cases. Attorney General Jeff Sessions has said that the backlog at the immigration courts allows people who should be deported to linger inside the U.S.

The union representing immigration judges counters that the metrics are a threat to their judicial independence, while lawyers warn they will unduly influence judge's decisions.

The new standards, reviewed by The Wall Street Journal, are to take effect for the next fiscal year beginning Oct. 1. They have not been released publicly.

immigration review, said the new system of metrics wasn't unique to the immigration courts.

"The purpose of implementing these metrics is to encourage efficient and effective case management while preserving immigration judge discretion and due process," he wrote.

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Under the new quotas, judges will be required to complete 700 cases a year and to see fewer than 15% of their decisions sent back by a higher court. Over the past five years, the average judge completed 678 cases in a year, said Justice Department spokesman Devin O'Malley. But there was a range, he said, with some judges completing as many as 1,500 cases in a year.

In addition, they will be required to meet other metrics, depending on their particular workload. One standard demands that 85% of removal cases for people who are detained be completed within three days of a hearing on the merits of the case. Another metric demands that 95% of all

merits hearings be completed on the initial scheduled hearing date.

Immigration attorneys and the union that represents judges warned the rules would pressure judges to resolve cases quickly at the expense of hearing out evidence that could help defendants trying to stay in the U.S.

"This is a recipe for disaster," said A. Ashley Tabaddor, an immigration judge in Los Angeles who is president of the National Association of Immigration Judges. "You are going to, at minimum, impact the perception of the integrity of the court."

Union officials also complained that they had not been given details needed to determine how performance will be calculated. And they said that some judges, for instance those working on the U.S.-Mexico border, have dockets with lots of quick cases and others have more cases that are complex and drawn-out.

Mr. O'Malley said the Friday letter to the judges made clear they will have the opportunity to "provide input" before they are rated unsatisfactory on any measurement.

The quotas are the most significant but not the first effort by the Justice Department to push immigration judges to move cases more quickly. Last July, the chief immigration judge wrote a memo to judges and others discouraging them from postponing cases. In December, Mr. Sessions wrote a memo arguing that the "timely and efficient adjudication of immigration cases" serves "the national interest."

government, in this case the Justice Department.

The backlog in the immigration courts is approaching 700,000 cases, up from fewer than 225,000 in 2009, according to data from the Transactional Records Access Clearinghouse at Syracuse University.

The judges union warns imposing quotas ultimately could exacerbate the backlog by encouraging people to appeal decisions and argue that the judge didn't give them adequate time to make their case because he or she was trying to meet a quota.

Greg Chen, director of government affairs for the American Immigration Lawyers Association, said his group worries that judges will make decisions based on how it affects their status rather than according to the law.

"These are not mere target goals," he said. "This is your job depends upon your ability to make sure you come in at these levels."

Write to Laura Meckler at laura.meckler@wsj.com

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, April 2, 2018 10:00 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] New EOIR memos re IJ quotas
Attachments: 03-30-2018 EOIR - PWP Element 3 new.pdf; 03-30-2018 McHenry - IJ Performance Metrics.pdf

----- Forwarded message -----

From: Dan Kowalski <dkowalski@david-ware.com>
Date: Mon, Apr 2, 2018 at 9:34 PM
Subject: [immprof] New EOIR memos re IJ quotas
To: UCLA immprof <immprof@lists.ucla.edu>

From: (b) (6) >

Subject: New: IJ quotas

Date: April 2, 2018 at 8:22:49 PM EDT

To: (b) (6) >

Justice Department rolls out case quotas for immigration judges

By: Tal Kopan, CNN

The Department of Justice has announced it will evaluate immigration judges on how many cases they close and how fast they hear cases, a move that judges and advocates criticize as potentially jeopardizing the courts' fairness and perhaps leading to far more deportations.

The policy has been in the works for months, as Attorney General Jeff Sessions and the Trump administration have been working to assert more influence over the immigration courts, or the separate court system built just for hearing cases about whether noncitizens have a claim to stay in the US.

US law gives the attorney general broad and substantial power to oversee and overrule these courts, as opposed to the civil and criminal US justice system, which is an independent branch of government. In the immigration courts, judges are employees of the Department of Justice.

Sessions has been testing the limits of that authority in multiple ways, and in a memo Friday, the director of the immigration courts informed judges they would now be evaluated on a set of metrics including the speed and volume of cases heard.

The Justice Department says the move is designed to make the system more efficient. The immigration courts have a backlog of hundreds of thousands of cases, and it can take years for an immigrant's case to work its way to completion. In that time, the individuals build lives in the US, and critics point to the immigration courts' backlog as a major factor in the number of undocumented immigrants living in the US.

"These performance metrics, which were agreed to by the immigration judge union that is now condemning them, are designed to increase productivity and efficiency in the system without compromising due process," a Justice Department official said of the memo. The official added that any judges who fail to meet performance goals would be able to present extenuating circumstances to the Justice Department.

More: <http://www.cnn.com/2018/04/02/politics/immigration-judges-quota/index.html>

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Mark Noferi

cell (b) (6)

EOIR PERFORMANCE PLAN
Adjudicative Employees

3. Job Element: Accountability for Organizational Results

<input checked="" type="checkbox"/>	Critical	<input type="checkbox"/>	Non-critical
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Definition: Exercises effort to ensure the integrity of the organization. Holds self accountable for organizational goals and objectives. Ensures cases are completed in a timely, efficient, and effective manner that meets objectives. Focuses on established organizational goals, results, and attainment of outcomes. Specific goals are attached.

Performance Standards:

Satisfactory:

Performance at this level is satisfactory when the applicable standards stated below are achieved in a timely and correct manner.

3.1 Acts consistently with the goals and priorities established by the Agency. (See attached goals)

3.2 Makes rulings and decisions in a timely manner, consistent with available resources.

3.3 Manages the immigration judge calendar efficiently, monitoring pending caseload, as needed.

3.4 Cooperates to achieve a productive work environment with other judges, court administrators, and staff members.

3.5 As assigned, performs special assignments and details, including conducting hearings of various types, at times on short notice, based on the needs of the agency.

3.6 Demonstrates appropriate use of courtroom technology.

Unsatisfactory:

Performance at this level shows a serious deficiency in one or more factors of this element.

Performance Goals
Immigration Judge

All goals are measured annually, from October 1 to September 30.

Satisfactory performance:

Case Completions: 700 cases per year.

and

Remand Rate (including BIA and Circuit Courts): less than 15%.

and

The immigration judge meets at least half of the following Benchmarks that are applicable to the judge's work during the rating period, as long as the judge's performance in each Benchmark is above the "Unsatisfactory" performance level.

Benchmarks:

- In 85% of non-status detained removal cases, no more than three days elapse from merits hearing to immigration judge case completion.
- In 85% of non-status, non-detained removal cases, no more than 10 days elapse from merits hearing to immigration judges case completion, unless completion is prohibited by statute (e.g. a cap on grants of relief) or completion is delayed due to a need for completion of background checks.
- In 85% of motions matters, no more than 20 days elapse from immigration judge receipt of the motion to adjudication of the motion.
- In 90% of custody redetermination cases, case is completed on the initial scheduled custody redetermination hearing date unless DHS does not produce the alien on the hearing date.
- In 95% of all cases, individual merits hearing is completed on the initial scheduled hearing date, unless, if applicable, DHS does not produce the alien on the hearing date.
- In 100% of credible fear and reasonable fear reviews, case is completed on the initial hearing date unless DHS does not produce the alien on the hearing date.

Needs improvement:

Case Completions: More than 560 but fewer than 700 cases per year.

or

Remand Rate (including BIA and Circuit Courts): between 15% and 20%.

or

The immigration judge fails to perform to the Satisfactory level in more than half of the applicable Benchmarks, as long as the judge's performance in each Benchmark is above the "Unsatisfactory" performance level.

Unsatisfactory performance:

Case Completions: fewer than 560 cases per year.

or

Remand Rate (including BIA and Circuit Courts): greater than 20%.

or

The immigration judge's performance in one or more of the following Benchmarks is Unsatisfactory.

Unsatisfactory Performance Benchmarks:

- In greater than 35% of non-status detained removal cases, more than three days elapse from merits hearing to immigration judge case completion.
- In greater than 35% of non-status, non-detained removal cases, more than 10 days elapse from merits hearing to immigration judge case completion, excepting cases where completion is prohibited by statute (e.g. a cap on grants of relief) or completion is delayed due to a need for completion of background checks.
- In greater than 35% of motions matters, more than 20 days elapse from immigration judge receipt of the motion to adjudication of the motion.
- In greater than 30% of custody redetermination cases, case is not completed on the initial scheduled custody redetermination hearing date excluding cases where DHS does not produce the alien on the hearing date.
- In greater than 25% of all cases, individual merits hearing is not completed on the initial scheduled hearing date, excluding cases where DHS does not produce the alien on the hearing date.
- In greater than 20% of credible fear and reasonable reviews, case is not completed on the initial hearing date, excluding cases where DHS does not produce the alien on the hearing date.

From: [EOIR Director \(EOIR\)](#)
To: [All of Judges \(EOIR\)](#)
Subject: Immigration Judge Performance Metrics
Date: Friday, March 30, 2018
Attachments: [PWP Element 3 new.pdf](#)

Good afternoon,

As you have likely heard, EOIR has established new performance metrics for immigration judges. In advance of implementing these new metrics on October 1, 2018, I am happy to share them with you today (attached). The new metrics will be added to the current immigration judge Performance Work Plan at Job Element 3: Accountability for Organizational Results.

At the outset, I would like to encourage you to review the metrics in conjunction with Article 22 of the Collective Bargaining Agreement between EOIR and NAIJ. For example, Article 22.3.h. contains a number of relevant factors that will be taken into consideration when evaluating an immigration judge's performance against these metrics. Similarly, Article 22.5.d. requires the Agency to give an immigration judge the opportunity to provide input regarding his or her performance prior to rating the judge below Satisfactory in any element.

Article 22.4.c. requires the Agency to "make available on a routine basis reports necessary for the Judge to assess his or her performance based on any numerical standards imposed by the Agency." In an effort to ensure that you are able to track your performance against the metrics in real time, we are in the process of creating a performance dashboard that will enable each of you to see how you are performing in relation to the metrics. We anticipate that the dashboard will be available in April, and we will provide additional information about it at that time.

As for evaluating immigration judge performance, please note that we are changing the performance rating period to align with the fiscal year. This change is being made across the Agency for all employees. As a result of this realignment, the current rating period for immigration judges that began on July 1, 2017, will now end on September 30, 2019.

The purpose of announcing the metrics now is to give you an opportunity to become familiar with them and the performance dashboard, when it becomes available. On October 1, 2018, the Agency plans to begin reviewing immigration judge performance in accordance with the new metrics. Subject to the terms of Article 22, when appraising performance for the 2017-2019 rating period, rating officials will take into consideration immigration judge performance as compared to the metrics from October 1, 2018, through September 30, 2019.

The impact and implementation of the metrics are subject to bargaining with NAIJ, so further details regarding the application of the metrics may be forthcoming.

Using metrics to evaluate performance is neither novel nor unique to EOIR. The purpose of implementing these metrics is to encourage efficient and effective case management while preserving immigration judge discretion and due process. I am confident that you will meet and surpass our high expectations. As always, I thank you for your hard work and dedication to the

mission of EOIR.

Sincerely,

James McHenry
Director

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Friday, April 6, 2018 9:35 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: Immigration Trivia Night is Happening! (April 27th)

----- Forwarded message -----

From: (b) (6) >
Date: Fri, Apr 6, 2018 at 1:27 PM
Subject: Immigration Trivia Night is Happening! (April 27th)
To: ImmPro DC <immpro-dc@googlegroups.com>
CC: (b) (6) >, (b) (6) >

Folks, in addition to our monthly immigration happy hour, we will be doing our ONCE A YEAR immigration trivia night. Here's the skinny:

WHAT: Immigration Trivia and Happy Hour

WHEN: Friday, April 27, 2018; 6PM - 8PM. Trivia starts at 7PM EST.

WHERE: Mad Hatter, [1319 Connecticut Ave, Washington, DC 20036](#). We'll be in the upstairs bar known as the "Up Bar." Problems finding us? Text or call me at 480-678-0040

FACEBOOK RSVP: <https://www.facebook.com/events/238946293342665/> (requires group membership to view)

FACEBOOK GROUP: <https://www.facebook.com/groups/1805599063002347/>

We'll have teams of up to five people with five rounds of immigration-related trivia. Previous trivia nights categories have included:

Immigration in Pop Culture
Immigration Law
Immigration Politics
Immigration History

The winning team will get \$50 off their bar tab/Mad Hatter gift certificate!

In addition to the trivia night, we'll have the regular happy hour with \$3 drafts, \$4 wine and rail drinks; and \$5 appetizers.

HAPPY HOUR BEGINS at 6PM
TRIVIA BEGINS at 7PM

Looking forward to seeing ya'll there.

(b) (6)

--
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To unsubscribe from this group and stop receiving emails from it, send an email to immpro-dc+unsubscribe@googlegroups.com.
Visit this group at <https://groups.google.com/group/immpro-dc>.
For more options, visit <https://groups.google.com/d/optout>.

--
Mark Noferi

Cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Saturday, April 7, 2018 8:49 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] White House memo on ending "Catch and release," + credible fear, military detention facilities

Mark Noferi

cell: (b) (6)

----- Forwarded message -----

From: (b) (6) @lclark.edu>

Date: Sat, Apr 7, 2018 at 7:18 AM

Subject: [immprof] White House memo on ending "Catch and release," + credible fear, military detention facilities

To: immprof@lists.ucla.edu

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

April 6, 2018

April 6, 2018

MEMORANDUM FOR THE SECRETARY OF STATE

THE SECRETARY OF DEFENSE

THE ATTORNEY GENERAL

THE SECRETARY OF HEALTH AND HUMAN SERVICES

THE SECRETARY OF HOMELAND SECURITY

SUBJECT: Ending "Catch and Release" at the Border of the United States and Directing Other Enhancements to Immigration Enforcement

Section 1. Purpose. (a) Human smuggling operations, smuggling of drugs and other contraband, and entry of gang members and other criminals at the border of the United States threaten our national security and public safety. The backlog of immigration-related cases in our administrative system is alarmingly large and has hindered the expeditious adjudication of outstanding cases. Border-security and immigration-enforcement personnel shortages have become critical.

(b) In Executive Order 13767 of January 25, 2017 (Border Security and Immigration Enforcement Improvements), I directed the Secretary of Homeland Security to issue new policy guidance regarding the appropriate and consistent use of detention authority under the Immigration and Nationality Act (INA), including the termination of the practice known as "catch and release," whereby aliens are released in the United States shortly after their apprehension for violations of our immigration laws. On February 20, 2017, the Secretary issued a memorandum taking steps to end "catch and release" practices. These steps have produced positive results. Still, more must be done to enforce our laws and to protect our country from the dangers of releasing detained aliens into our communities while their immigration claims are pending.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct as follows:

Sec. 2. Ending "Catch and Release". (a) Within 45 days of the date of this memorandum, the Secretary of Homeland Security, in coordination with the Secretary of Defense, the Attorney General, and the Secretary of Health and Human Services, shall submit a report to the President detailing all measures that their respective departments have pursued or are pursuing to expeditiously end "catch and release" practices. At a minimum, such report shall address the following:

- (i) All measures taken pursuant to section 5(a) of Executive Order 13767 to allocate all legally available resources to construct, operate, control, or modify -- or establish contracts to construct, operate, control, or modify -- facilities to detain aliens for violations of immigration law at or near the borders of the United States;
- (ii) All measures taken pursuant to section 5(b) of Executive Order 13767 to assign asylum officers to immigration detention facilities for the purpose of accepting asylum referrals and conducting credible fear determinations and reasonable fear determinations;
- (iii) All measures taken pursuant to section 6 of Executive Order 13767 to ensure the detention of aliens apprehended for violations of immigration law;
- (iv) All measures taken pursuant to section 11(a) of Executive Order 13767 to ensure that the parole and asylum provisions of Federal immigration law are not illegally exploited to prevent the removal of otherwise removable aliens;
- (v) All measures taken pursuant to section 11(b) of Executive Order 13767 to ensure that asylum referrals and credible fear determinations pursuant to section 235(b)(1) of the INA (8 U.S.C. 1125(b)(1)) and 8 CFR 208.30, and reasonable fear determinations pursuant to 8 CFR 208.31, are conducted in a manner consistent with those provisions;
- (vi) All measures taken pursuant to section 6 of Executive Order 13768 of January 25, 2017 (Enhancing Public Safety in the Interior of the United States), to ensure the assessment and collection of all authorized fines and penalties from aliens unlawfully present in the United States and from those who facilitate their unlawful presence in the United States;
- (vii) A detailed list of all existing facilities, including military facilities, that could be used, modified, or repurposed to detain aliens for violations of immigration law at or near the borders of the United States; and
- (viii) The number of credible fear and reasonable fear claims received, granted, and denied -- broken down by the purported protected ground upon which a credible fear or reasonable fear claim was made -- in each year since the beginning of fiscal year 2009.

(b) Within 75 days of the date of this memorandum, the Attorney General and the Secretary of Homeland Security, in consultation with the Secretary of Defense and the Secretary of Health and Human Services, shall submit a report to the President identifying any additional resources or authorities that may be needed to expeditiously end "catch and release" practices.

Sec. 3. Return of Removable Aliens to Their Home Countries or Countries of Origin. Within 60 days of the date of this memorandum, the Secretary of State and the Secretary of Homeland Security shall submit a report to the President detailing all measures, including diplomatic measures, that are being pursued against countries that refuse to expeditiously accept the repatriation of their nationals. The report shall include all measures taken pursuant to section 12 of Executive Order 13768 to implement the sanctions authorized by section 243(d) of the INA (8 U.S.C. 1253(d)), or a detailed explanation as to why such sanctions have not yet been imposed.

Sec. 4. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of State is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP

<http://thehill.com/homenews/administration/382054-trump-signs-memo-ordering-end-to-catch-and-release-practices>

--
(b) (6) she/her

Lewis & Clark Law School
[10015 S.W. Terwilliger Boulevard](#)
[Portland, OR 97219](#)

(b) (6)
(b) (6) [lclark.edu](#)
(b) (6)

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Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, April 10, 2018 6:22 AM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Mendez Rojas decision

Mark Noferi
cell: (b) (6)

----- Forwarded message -----

From: (b) (6)
Date: Mon, Apr 9, 2018 at 2:05 PM
Subject: Re: [immprof] Mendez Rojas decision
To: (b) (6) <[@uchastings.edu](mailto:(b) (6)@uchastings.edu)>
Cc: (b) (6) <[@uchastings.edu](mailto:(b) (6)@uchastings.edu)>, "immprof@lists.ucla.edu" <immprof@lists.ucla.edu>

We just received a decision from the New Orleans immigration court granting asylum to our client. The judge found that she was excused from the filing deadline due to an extraordinary circumstance, but in a footnote, he cited to the decision and stated that she seemed to be a class member.

(b) (6)
(b) (6)
Loyola New Orleans College of Law
Stuart H. Smith Law Clinic & Center for Social Justice
[7214 St. Charles Avenue](#), Box 902
(Physical address: [540 Broadway](#))
[New Orleans, LA 70118](#)
Tel (b) (6)
Fax (b) (6)
E-mail: (b) (6) <[@loyno.edu](mailto:(b) (6)@loyno.edu)>

On Tue, Apr 3, 2018 at 6:28 PM, (b) (6) <[@uchastings.edu](mailto:(b) (6)@uchastings.edu)> wrote:

I should refrain from commenting but I can't restrain myself. Apologies extended. How do IJ's who seek independence and to be treated like judges rest their decision on the fact that they have not received guidance from the OCC? One can appreciate that they need to cover their backsides but I would hope that at a minimum you were provided an opportunity to make a record to preserve the issue for an appeal if that was necessary.

I have never had of any other type judge use that excuse. To be fair it looks like the judge may have thought that the decision did not apply to him/her.

(b) (6)

Sent from my iPhone

Please accept my apologies in advance for any typographical errors as this message is being typed on a small device.

On Apr 3, 2018, at 2:04 PM, (b) (6) > wrote:

I attempted to use the case yesterday in an individual in Arlington, VA. My client was also B.II. The immigration judge skimmed the opinion, decided it was based in the APA and that the APA does not apply to EOIR, and refused to enter the case into the record. The TA was unaware of the case and demurred as he had no guidance from OCC.

On Apr 2, 2018, at 08:00 15, (b) (6) @ubalt.edu> wrote:

Good morning,

My students have an asylum merits hearing on April 6th. Their client faces the one year bar and appears to fit in class category B.II.

Has anyone tried to use the Mendez-Rojas order in immigration court to argue why the one year bar shouldn't apply to your client? Thoughts?

Thank you,

(b) (6)

(b) (6), Esq.*

(b) (6)

University of Baltimore School of Law

*Licensed in California only. Practice in Maryland is limited to immigration and naturalization matters.

From: (b) (6)
Sent: Sunday, April 1, 2018 4:58:42 PM
To: (b) (6); immprof@lists.ucla.edu
Subject: [immprof] RE: Mendez Rojas decision

Just to clarify, I had nothing to do with this case. This was NWIRP and AIC. But I agree this could make a huge difference in the lives of many asylum seekers.

Best wishes,

(b) (6)

From: (b) (6) @law.harvard.edu>
Sent: Sunday, April 1, 2018 4:08 PM
To: (b) (6) >; immprof@lists.ucla.edu
Subject: RE: Mendez Rojas decision

Congrats on this (b) (6) – this is great news, so important (and a morale boost indeed).

From: (b) (6)
Sent: Friday, March 30, 2018 8:16 AM
To: immprof@lists.ucla.edu
Subject: [immprof] Mendez Rojas decision

Nice to see some good news in the asylum world for a change!

Class members – those who've passed CFI or been released from border without CFI – must be given notice of one year filing deadline. Those who weren't given notice have one year filing deadline exception.

Best wishes,

(b) (6)

(b) (6)

(b) (6)

Defending Vulnerable Populations
Catholic Legal Immigration Network, Inc. (CLINIC)
[8757 Georgia Avenue, Suite 850*](#)
[Silver Spring, MD 20910](#)
Phone: (b) (6)
Email: (b) (6)
Website: www.cliniclegal.org

*working remotely from New York

Save the date for CLINIC's 20th annual Convening!

Defending hope and the American Dream

May 30 – June 1, 2018 | Tucson, AZ

cliniclegal.org/convening

You are currently subscribed to asylumcomm as:

(b) (6)

To change your email address go to <http://www.aila.org/myaila/account/edit>

You can also unsubscribe or make changes at <http://www.aila.org/MyAila/Account/Listservs>

Other questions? Email listservs@aila.org

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(b) (6)

Law Office of Edward Summers, PLLC

Office Address: [404 8th St. NE](#), Second Floor

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Charlottesville, VA 22902-0976

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info@summersimmigration.com

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Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Monday, April 16, 2018 7:14 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] IJ Tabaddor to testify in Congress Wednesday

----- Forwarded message -----

From: Dan Kowalski <dkowalski@david-ware.com>
Date: Monday, April 16, 2018
Subject: [immprof] IJ Tabaddor to testify in Congress Wednesday
To: UCLA immprof <immprof@lists.ucla.edu>

From: (b) (6) [mailto:(b) (6)]
Sent: Monday, April 16, 2018 12:34 PM
To: AILA Southern California Chapter Distribution List <southca@lists.aila.org>
Subject: [southca] IJ Tabaddor to testify in Congress Wednesday

Colleagues,

As currently scheduled, Judge A. Ashley Tabaddor is expected to testify this Wednesday at 2:30PM EST 11:30AM PST. at a hearing on Strengthening and Reforming America's Immigration Court System

Here is the link to the event, if you want to watch it: <https://www.judiciary.senate.gov/meetings/strengthening-and-reforming-americas-immigration-court-system>

--

(b) (6)

(b) (6)

Phone: (b) (6)

Fax: (b) (6)

(b) (6);

email: (b) (6)

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Mark Noferi
Cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Wednesday, April 18, 2018 8:01 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: Join BC Eagles for a Pentagon Tour

Follow Up Flag: Flag for follow up
Flag Status: Completed

----- Forwarded message -----

From: BC Veterans <bcvets@bc.edu>
Date: Wednesday, April 18, 2018
Subject: Join BC Eagles for a Pentagon Tour
To:

An Exclusive Look Inside the Pentagon - A Tour for BC Alumni



Date: Thursday, June 7, 2018

2:30 PM Arrival Time

3:00–4:15 PM Tour of the Pentagon

4:30–6:00 PM Post-Tour Reception at Bonefish Grill

Location: The Pentagon, Washington, D.C.

Cost: \$15 for the post-tour reception

Have you ever wondered what goes on inside one of America's most iconic landmarks? Or wondered how it came to be built and why? Or pondered what day-to-day life is like for the 23,000 men and women, both military and civilian, who work there each and every day? If so, here's your opportunity to find out.

We are pleased to offer this special tour to BC alumni veterans and public safety professionals. For this exclusive tour of the headquarters of the Department of Defense at the Pentagon Col. Dave Clark '81, technical advisor, foreign intelligence, Department of the Army, G-2, will lead us through the Pentagon with stops at the 9-11 Memorial and Chapel, the Korean War and Vietnam War exhibits, the Hall of Heroes, and "ground zero"—the famous Pentagon courtyard—so named during the Cold War when it was believed to be at the top of the Soviet Union's list of strategic targets.

[Click here for more information and to register.](#) *You must register before May 17.* There is a limit of 15 registrants for this special tour, so please register early to secure your spot.

There is no charge for the tour; the \$15 registration fee is for the post-tour reception at Bonefish Grill where hors d'oeuvres, beer and wine will be served

For more information contact (b) (6) at the Alumni Association at (b) (6)@bc.edu or 617-552-1607.

(b) (6) MA'91
Associate Director, Special Services
Staff Liaison to the BC Public Safety Alumni Network and BC Veterans Alumni Network
Office of University Advancement
W: (b) (6) 7 | M (b) (6)

--
Mark Noferi
Cell: (b) (6)

Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Tuesday, April 24, 2018 8:32 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: [immprof] Delegated Presidential Authority and the Travel Ban

Mark Noferi

cell: (b) (6)

----- Forwarded message -----

From: (b) (6) <(b) (6)@law.harvard.edu>
Date: Tue, Apr 24, 2018 at 11:12 AM
Subject: [immprof] Delegated Presidential Authority and the Travel Ban
To: "immprof@lists.ucla.edu" <immprof@lists.ucla.edu>, "ICLINIC@LIST.MSU.EDU" <ICLINIC@list.msu.edu>

The statutory arguments related to the Travel Ban litigation are certainly something our community has been discussing for some time, but they're less prevalent in the public discourse.

For those interested, [here's a short article](#) on the Harvard Law Review's blog that Fatma Marouf, Sabi Ardalan, and I authored discussing why the INA's text, structure, and prior usage preclude the President from wielding the sort of delegated authority he proclaims to have in enacting the Travel Ban. The post is largely based on the [amicus brief](#) that so many of you graciously signed onto and was filed in the current Travel Ban litigation.

(b) (6)

(b) (6)

Harvard Immigration and Refugee Clinical Program

Harvard Law School

[6 Everett Street, Suite 3105](#)

[Cambridge, Massachusetts 02138](#)

Phone: (b) (6)

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Noferi, Mark (EOIR)

From: Mark Noferi (b) (6)
Sent: Thursday, April 26, 2018 1:27 PM
To: Noferi, Mark (EOIR)
Subject: Fwd: Migratory Notes

----- Forwarded message -----

From: (b) (6) <[@csun.edu](#)>
Date: Thursday, April 26, 2018
Subject: Migratory Notes
To: (b) (6)

[Add to contacts](#)



Know someone who might like Migratory Notes? Plea

#MustPlay/#MustRead/ #MustListen

Playmatics, ProPublica and WNYC put readers to the test to see if they have the endurance to make it you know and head to the U.S. You aren't certain you will be able to get there. You're even less certain actually take to get asylum. "Players on average last 47 days," in the case of a Tibetan seeking asylum system and a radio story on the challenges that often come after receiving asylum.

Travel Ban

The Supreme Court appeared to be leaning toward upholding Trump's travel ban on Wednesday, as o

Observing was Karen Korematsu, who has been warning that there are dangerous parallels in the trav Among those who have submitted friends-of-the-court briefs are more than 55 former intelligence expe

DACA & Dreamers

The prospect that DACA may be open again to new applicants has many Dreamers eager to get their p

A federal judge ruled Tuesday that the government must accept new DACA applicants, as well as cont put a stay on his decision for 90 days, providing the government an opportunity to better explain its rati

The student who brought the case, Maria de la Cruz Perales Sanchez, told The Daily Princetonian she undocumented youth once again."

The first protected DACA recipient was deported to Mexico in February because he wasn't carrying prc

Border

Latinos now constitute more than half of Border Patrol agents, up from 36 percent in 1989, The Los An visited, the recruits were all Latino.

CBP has alleged a dramatic rise in attacks against Border Patrol agents, but when The Intercept dug ir incident in the Rio Grande Valley Sector on February 14, 2017, involved seven U.S. Border Patrol Agei

Citizenship & Bureaucracy

Getting married used to be one of the few clear ways, however long and bureaucratic, to prevent a dep themselves the focus of ICE enforcement, reports The New York Times.

Trump's immigration rhetoric has made green card holders fear that their status in the country is not sa applications at USCIS have grown by 40 percent, reports Reveal.

Enforcement

The New York Times reports on newly released data from the Office of Refugee Resettlement showing system run by nonprofits, Border Patrol sources say "there is no firm process to determine whether the accused ICE of using the tactic as a deterrence policy, an approach that Trump officials have also publ

The White House announced the creation of its National Vetting Center (NVC) in February, but what th agencies point out that the U.S. already has an information-sharing center in the National Targeting Ce

The investigative hand of ICE is fighting to keep its manuals from being FOIA'd, using a loophole in op Intercept.

TPS

The Trump administration is preparing to cancel TPS status for 9,000 Nepalese granted residence per reports The Dallas Morning News.

Detention

U.S. Attorney General Jeff Sessions reversed a decision to suspend a free legal assistance program fc Morning News reports.

In one of the cases against CoreCivic for exploiting immigrant labor in its facilities, an immigrant detain

Pennsylvania said it wouldn't renew the license of a residential detention center housing immigrant fam

ICE does not appear to be following its own rules for how minors "aging out" of custody are supposed t

Local Politics

In an effort to approach immigrant needs proactively, Minneapolis created a new city office aimed spec advocates.

Which Citizenship Comes with the Most Benefits?

A study of which countries citizenships come with benefits, and which don't, shows that destination ma centers like London or New York City, reports Quartz.

Shorts

- The Supreme Court will begin oral arguments on a case to consider what happens if the governi
- A high school on the US border in Arizona has an unusually impressive track and field record. (C
- Interest from Indians in investor visas surges as it becomes harder to get H1-B visas. (CNN Mor
- An immigrant soldier passed away during the 11 months he spent in limbo waiting for the army t

Follows: Caravan arrives at the border, Greyhound aligned with Border Patrol, Vietnamese depc

- About 130 Central American migrants arrived in Mexicali earlier this week, and plan to ask for as
- one-sided, I have instructed the Secretary of Homeland Security not to let these large Caravans
- Greyhound is siding with Border Patrol over immigrant passengers and permitting searches on i
- A Border Patrol agent on trial for the shooting death of a Mexican teenager through the border fe
- him with voluntary or involuntary manslaughter.
- Immigrants deported to Vietnam despite an agreement between the U.S. and Vietnam that oster
- treated suspiciously by Vietnamese authorities.

Immigration-Related Resources

- **Podcasts**
 - How the US triggered a massacre in Mexico, Longform podcast by Politico's Ginger Thompson.
 - Only in America: National Immigration Forum launched a new podcast about the people behind ir
 - The New American Songbook from Groundtruth Project looks at the stories behind the songs of ir
 - Voices in America
 - Mash-Up American
 - ¿Qué Pasa, Midwest? is a bilingual podcast to help encourage a Midwestern Latinx community
 - For a more complete list Radio Public curates podcasts about immigration and migration
- **Recently released immigration books and reports (got one, send it over)**
 - Undocumented Lives: The Untold Story of Mexican Migration, about the Mexican government's s
 - Recently released data from the Transactional Records Access Clearinghouse shows Secure Comm
 - Bringing Evidence to the Refugee Integration Debate, from the Urban Institute
 - The Making of a Dream: How a group of young undocumented immigrants helped change what it
 - The Book of Isaías: A child of Hispanic immigrants seeks his own America by Daniel Connolly is
 - The Newcomers: Finding Refuge, Friendship, and Hope in an American Classroom by Helen Thor
 - Special report on the Politics of Immigration and Education from the journal Education Policy.
- **Curriculum**
 - Re-imagining immigration has resources and lessons to teach about migration, immigration, refugu
 - The Advocates for Human Rights and the Immigration History Research Center at UMN free curri
 - Imm-print published an Immigration Detention Syllabus
- **Reporting tools and tips**
 - Resources for investigating visas (Midwest Center for Investigative Reporting)
 - Reporting on Refugees, Asylum Seekers and Immigrants (90 Days, 90 Voices)

- o **Immigration Data Resources**: An extensive, and growing, list of immigration resources curated by
- o **Tips on covering immigration when you do not live near the border** (Daniel Connolly, from IRE 2)

That's all for Migratory Notes 62. If there's a story you think we should consider, please send us an email.

Thank you to Jacque Boltik and Angie Quintero for creating our template. Daniel Kowalski, Audrey Singer, Mic

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